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SMALL BUSINESS COMMISSION NOTICE OF MEETING & AGENDA



Monday, January 13, 2014 5:30 P.M. CITY HALL, ROOM 400 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102





Stephen Adams, President Monetta White, Vice President Kathleen Dooley, Mark Dwight, Luke O'Brien William Ortiz-Cartagena, Irene Yee Riley



- 1. Call to order and roll call.
- General Public Comment: Allows members of the public to comment generally on matters within the Commission's purview, and suggest new agenda items for the Commission's future consideration. (Discussion Item)
- Approval of the December 9, 2013 Joint SBC-SFMTA Board of Directors meeting minutes. (Action Item)
 Explanatory Documents: <u>Draft December 9, 2013 Joint SBC-SFMTA Board of Directors meeting minutes</u>
- Approval of the December 9, 2013 special meeting minutes. (Action Item) Explanatory Documents: Draft December 9, 2013 special meeting minutes
- Approval of the December 20, 2013 special meeting minutes. (Action Item)
 Explanatory Documents: Draft December 20, 2013 special meeting minutes
- 6. Discussion and possible action on overview of Final Report of the Universal Health Care Council and updated reporting requirements for recent "Health Care Security Ordinance" (HCSO): The Universal Healthcare Council submitted its final report. The Council was convened to identify necessary local policies to support the implementation of the ACA and employer mandates to the HCSO. The Commission may recommendation from the report and on the updated reporting requirements of the HCSO. (Discussion and Possible Action Item)

Explanatory Documents: Report from the Universal Healthcare Council (UHC), FAQ's, San Francisco Health Care Security Ordinance and the Affordable Care Act

Presentation by Colleen Chawla, Deputy Director of Health, San Francisco Department of Public Health and Ellen Love, Office of Labor Standards Enforcement.

7. Discussion and possible action on Board of Supervisors File No. 131138 [Hearing - Roadwork and Infrastructure Oversight]: Hearing directed to the Department of Public Works, Municipal Translation Agency (MTA), Public Utilities Commission, and Pacific Gas and Electic Company to explore a number of issues, acluding where projects are occurring, including sewer, water, natural gas, and road resurfacing, and what the benefits of these infrastructure improvements are; how the projects are coordinated to comply with the City's mandate that once a road is resurfaced no work will be done for five years — absent an emergency — to minimize repetitive street disruption; why some blocks remain under construction for very extended periods of

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REGINA DICK-ENDRIZZI, EXECUTIVE DIRECTOR CHRISTIAN MURDOCK, ACTING COMMISSION SECRETARY

time, with on-again-off-again work and repetitive digging; how blocks are chosen in terms of scheduling work; how many blocks are worked on annually and what the future schedule looks like; how departments are minimizing disruptions to the public caused by road work (parking, traffic detours, noise, dust, etc.); how contractors are held accountable for completing work in a timely manner, complying with contractual requirements, delivering high quality work, and minimizing impacts on surrounding neighbors; why some blocks, after undergoing utility work, only get paved on one side of the street and what we can do to prevent this; why it takes so long for MTA to re-stripe repaved roads, often months after the repaving is complete; how the various projects are funded and what the cost is per block; and what our goals are for improving pavement conditions. (Discussion and Possible Action Item)

Explanatory Documents: Hearing Referral (PDF)

Presentation by Regina Dick-Endrizzi, Director of the Office of Small Business.

- 8. Director's Report: Update and report on the Office of Small Business and the Small Business Assistance Center, update on department programs, recent announcement from the Mayor, newly introduced policy matters, update on legislative matters, and announcements regarding small business activities. (Discussion Item)
- Legislation and Policy Committee Report: Allows the Chair to report on recent committee activities and make announcements. (Discussion Item)
- 10. President's Report: Allows the President to report on recent small business activities and make announcements that are of interest to the small business community. (Discussion Item)
- 11. Vice President's Report: Allows the Vice President to report on recent small business activities and make announcements that are of interest to the small business community. (Discussion Item)
- 12. Commissioner Reports: Allows Commissioners to report on recent small business activities and make announcements that are of interest to the small business community. (Discussion Item)
- 13. General Public Comment: Allows members of the public to comment generally on matters within the Commission's purview, and suggest new agenda items for the Commission's future consideration. (Discussion Item)
- 14. New Business: Allows Commissioners to introduce new agenda items for future consideration by the Commission. (Discussion Item)
- 15. Adjournment. (Action Item)

Public comment will be taken before or during the Small Business Commission's consideration of each agenda item. Copies of explanatory documents and other related materials listed in this agenda are available for download by linking to the website agenda or www.sfgov.org/sbc, and are available for public inspection and/or copying at City Hall, Room 110. Please call Christian Murdock at (415) 554-6407 to make arrangements for pick up or review.

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San Francisco Universal Healthcare Council 2013

FINAL REPORT

San Francisco Universal Healthcare Council 2013 FINAL REPORT - EXECUTIVE SUMMARY

On July 25, 2013, Mayor Lee asked Director of Health Barbara Garcia to reconstitute the Universal Healthcare Councii (UHC) to engage stakeholders in a data-driven process to examine San Francisco's implementation of the federal Affordable Care Act (ACA) and its integration with the City's Health Care Security Ordinance (HCSO or Ordinance). The work of the original UHC, convened in February 2006, ultimately resulted in the enactment of the HCSO. The Ordinance imposes an Employer Spending Requirement, which requires some employers to make health care expenditures on behalf of their San Francisco employees, and establishes a public health benefit program that includes Healthy San Francisco, a health care access program for the uninsured. The reconstituted 41-member UHC reviewed in-depth analyses of the ACA, the HCSO, and the impact of these laws on individuals and employers in San Francisco. Council members held an open dialogue to share views and concerns, and collected suggestions for final submission to the Mayor in this report.

Two key findings emerged during the UHC's deliberations:

- The HCSO remains intact alongside the ACA. While the ACA's insurance market
 reforms remove one option for compliance with the HCSO (the medical standalone health reimbursement account), the Ordinance itself remains intact. This
 means that for the large majority of San Francisco employers covered by the
 HCSO, the ACA does not present hurdles to compliance with either law.
- Potential affordability concerns remain for some. Due to the high cost of living
 and doing business in San Francisco compared to other places in the state and
 the nation, the UHC identified a number of categories of people or entities
 (particular populations of individuals, certain types of employers, and the City
 public health system) that may face affordability concerns beginning in 2014.

The UHC did not seek consensus and, as such, a diversity of opinion is expressed in the 30 suggestions offered by UHC members, which fall generally into the following categories:

- Maintain the Current Status
- Modify the HCSO to Mirror the ACA
- Modify the HCSO Employer Spending Requirement
- Modify the City Option
- Address Carryover HRA Balances
- Conduct Outreach & Research
- Other

San Francisco Universal Healthcare Council 2013 FINAL REPORT

On July 25, 2013, Mayor Lee asked Director of Health Barbara Garcia to reconstitute the Universal Healthcare Council (UHC) to engage stakeholders in a data-driven process to examine San Francisco's implementation of the federal Affordable Care Act (ACA) and its integration with the Health Care Security Ordinance (HCSO). The work of the original UHC, convened in February 2006 by then-Mayor Newsom, ultimately resulted in the enactment of the HCSO, which requires employers to make health care expenditures on behalf of their employees and established a public health benefit program that includes Healthy San Francisco, a health care access program for the uninsured. This report details the work and recommendations of the 2013 UHC.

THE 2013 UNIVERSAL HEALTHCARE COUNCIL

The 2013 Universal Healthcare Council (UHC) was an inclusive group of stakeholders brought together to analyze, identify, and assess key issues underlying the intersection of the HCSO and ACA. The reconstituted 41-member UHC was co-chained by Director Garcia and Dr. Sandra Hernandez, CEO of The San Francisco Foundation. The membership largely mirrored that of the 2006 UHC and included representation from the city's labor, business, health care, and government sectors. A list of 2013 UHC members is included as Attachment 1.

The UHC met five times from September to December 2013. Research support was provided by the City's Department of Public Health, Office of the Controller, and the Office of Labor Standards Enforcement. All meetings were open to the public and time was allotted for public comment. Complete meeting materials, including issue briefs, presentations, and minutes, can be accessed through the Department of Public Health website, at http://www.sfdph.org/dph/comupg/knowlcol/Uhc/default.asp.

UHC members reviewed in-depth analyses of the ACA, the HCSO, and their impact on individuals and employers. A summary of the key data examined by the UHC is included in Attachment 2. They held an open dialogue to share views and concerns and to collect suggestions. The group did not seek consensus and, as such, the array of suggestions offered in this report reflects a diversity of opinion. The various suggestions have not been tested for their legality or practicality, nor have they been evaluated for the extent to which they reflect the UHC's guiding principles (set out below). Rather, this document presents the complete list of individual UHC members' suggestions in order to provide the Mayor with a full accounting of the many possibilities and considerations generated by the UHC to inform the City's policy deliberations going forward.

UHC Guiding Principles

The UHC unanimously adopted the following guiding principles, adapted from the 2006 UHC and updated to reflect the charge of the 2013 UHC in the post-ACA environment.

- Support the Affordable Care Act The UHC supports the ACA and is committed to
 full implementation of the ACA in San Francisco. The ACA builds on what San
 Francisco began and presents an opportunity for San Francisco to continue to lead
 the way in health care access.
- Maximize Enrollment into Health Insurance Health insurance is better than uninsurance and the UHC is committed to maximizing enrollment of San Franciscans into the new insurance apportunities created by the ACA.
- Leverage State and Federal Funding All available state and federal funds that support enrollment of San Franciscans into health insurance should be utilized and encouraged.
- 4. Maintain Healthy San Francisco Though Healthy San Francisco is not health insurance, it provides access to health care services for San Francisco's most vulnerable uninsured. At a minimum, Healthy San Francisco should be preserved for individuals who do not qualify for publicly-funded health insurance, but also should not be an impediment to full implementation of the ACA.
- Maximize Affordability Health insurance options must be affordable for San Franciscans to maximize enrollment.
- 6. Shared Responsibility Fundamental to the UHC's vision and goal is the notion of collective responsibility. All sectors of society individuals as well as public, private, and non-profit entities must take a role in reducing the number of uninsured residents and ensuring access to care. Shared responsibility increases affordability and should continue to form the basis of creative local solutions to provide access to health insurance and care.

BACKGROUND

Health Care Security Ordinance

The Health Care Security Ordinance (HCSO) requires employers with 20 or more total employees (50+ for non-profit) to make health care expenditures on behalf of covered employees working a minimum of 8 hours per week in San Francisco. Employers comply by providing health insurance, allocating funds to health reimbursement account (HRAs), or paying into the City Option. Under the City Option, the City subsidizes eligible employees' membership fees for Healthy San Francisco or sets up a medical reimbursement account, known as the City MRA. Healthy San Francisco is operated by

the City's Department of Public Health and provides program participants access to a medical home, which is a health care facility (in most cases, a clinic) through which participants access their medical care. To be eligible, one must be: a San Francisco resident, uninsured, earning less than 500% of FPL (\$57,450/year), and not eligible for state or federally subsidized coverage. The City MRA reimburses employee account holders for eligible health care expenditures.

The HCSO requires health care expenditures in an hourly dollar amount, but the employer controls how it makes its expenditures. Employers may use a single compliance strategy for all of its employees, multiple compliance strategies to cover different employees, or use multiple strategies to cover one employee. Each year, HCSO-covered employers report their compliance strategies and expenditures to the City's Office of Labor Standards Enforcement (OLSE). Through the HCSO's Employer Spending Requirement (ESR), employers have contributed an average of \$1.2 billion for health expenditures to cover on average 235,000 employees each year.

Since its enactment in 2007, the HCSO has served an important role in increasing access to health care and is a contributing factor to the declining rate of uninsurance in San Francisco, which dropped from 15.2% in 2009 to 13.6% in 2012.² Healthy San Francisco has won national acclaim and has provided medical homes to over 116,000 uninsured San Franciscans during the past five years. The program currently serves an estimated 70% of the City's uninsured population.

The HCSO has also helped to put San Francisco ahead of the curve in implementing the ACA. Healthy San Francisco has provided uninsured San Franciscans regular access to health care services since 2007. In addition, Healthy San Francisco currently serves more than 70 percent of San Francisco's uninsured, who can now easily be contacted to tell them of the changes that are coming with Health Reform and help them enroll into insurance.

Affordable Care Act

The Affordable Care Act (ACA) was enacted in March 2010. Over the past three years, local health systems and City Departments have developed implementation strategies to comply with the phase-in process of the federal law. Over the next two years, several more important reforms and provisions directly affecting San Franciscans will take effect. The individual mandate, which requires most individual taxpayers to carry health insurance for themselves and their dependents, and health insurance market reforms go into effect January 1st, 2014. The employer mandate, which requires employers with 50+ full-time employees to offer affordable health insurance to full-time

² United States Census Bureau, American Community Survey, 2009-2012.

¹ San Francisco Office of Labor Standards, Analysis of Annual Reporting Forms, 2010-2012.

employees, is effective January 1st, 2015. To assist with these mandates, the ACA makes new health insurance options available through Covered California and expands eligibility for Medi-Cal, beginning January 1st, 2014. It also creates a health insurance exchange and limited subsidies for small businesses that wish to offer health insurance.

UHC FINDINGS ON THE INTERSECTION OF THE HCSO AND ACA

At the intersection of the HCSO and the ACA, the UHC identified two key issues that have implications for individuals, employers, and the City: the compatibility of the HCSO with the ACA, and the affordability of health care coverage.

HCSO Remains Intact Alongside the ACA

Insurance market reforms under the ACA affect one market-based option for compliance with the HCSO but leave the Ordinance itself intact. This means that for the large majority of San Francisco employers covered by the HCSO, the ACA does not present hurdles to compliance with either law. Eighty-eight percent of the City's employers meet their HCSO Employer Spending Requirement by offering insurance to some or all of their employees, a trend that is particularly evident among large employers and further incentivized under the ACA. Employers who currently pay into the City Option can also continue to do so unaffected, and their covered employees will continue to have access to Healthy San Francisco or the City MRA, which the employees can use to purchase individual insurance on Covered Colifornia.

However, the ACA does make changes to the third commonly used method of HCSO compliance, the health reimbursement arrangement (HRA). HRAs are accounts created by employers on behalf of employees to reimburse employees for their health care expenditures. Typically, HRAs are structured such that employer contributions expire and the unused funds revert to the employer. Under the HCSO, contributions are treated as employer health care expenditures only if the contribution remains available for at least 24 months from the date of the contribution or 90 days from separation. The HCSO also requires HRA contributions to be "reasonably calculated to benefit the employee" to ensure that eligible expenses are not subject to restrictions that make it unreasonable to believe that the employee will be able to benefit fully from the employer's contributions.

HRAs have been a cost-effective way for some businesses to comply with the HCSO because the average employee expenditure rate is 24.6%, meaning that roughly 75 cents of every dollar contributed to an HCSO reverts to the employer. In comparison, dollars paid for insurance premiums and to the City Option do not revert to the employer. The use of HRAs to make health care expenditures (HCE) is highest among small businesses and those with many part-time employees. By cross-referencing HCSO data against data from the Office of the Treasurer and Tax Collector, OLSE estimates

that a minimum of 658 employers (16%) subject to the HCSO allocated funds to at least one stand-alone HRA in 2012. Per the HCSO 2012 annual reporting forms, 190 employers (5%) used stand-alone HRAs exclusively.

The ACA market reforms affect HRAs such that they will no longer be available as a complete HCSO compliance strategy for employees who work more than 20 hours per week. As of January 1st, 2014, the ACA requires most HRAs to be integrated with comprehensive, employer-sponsored health insurance plans.³ HRAs that are not coupled with an insurance plan, known as stand-alone HRAs, are disallowed unless they reimburse only for "excepted benefits." 4 "Excepted benefits" is a term used in the Affordable Care Act to describe a limited number of health benefits that are "excepted" from some of the market reform requirements, so employers can still provide excepted benefits whether or not they also provide health insurance. But the scope of such benefits is extremely limited in comparison to the full range of health care benefits that stand-alone HRAs could provide prior to January 1st, 2014. Because the excepted benefits will be so limited, OLSE has correspondingly limited the HCSO credit an employer receives for contributing to an excepted benefits HRA to the amount of the employer's spending requirement for an employee who works an average of 20 hours per week. Contributions to stand-alone HRAs that were not limited to HRAs did not have this limit.

This change will affect how some employers comply with the HCSO and will likely have financial impacts for both employers and employees. Employers who relied exclusively on HRAs to make health care expenditures for employees working more than 20 hours per week can no longer do so and will have to choose a different type of expenditure for any additional hours. Because providing insurance and paying into the City Option are more expensive than HRAs, this will create additional costs for affected businesses in 2014. Employees will also have additional burdens, because their non-excepted medical expenses, including health insurance premiums, will not be eligible for reimbursement.

³ U.S. Departments of Treasury and Labor. IRS Notice 2013-54: Application of Market Reform and other Provisions of the Affordable Care Act to HRAs, Health FSAs, and Certain other Employer Healthcare Arrangements. September 13, 2013.

⁴ Section 9832(c) of the Internal Revenue Code and its accompanying regulations contain the full list of excepted benefits and place some limits on how they can be offered. But only some of those excepted benefits dis qualify as "health care services" under the HCSO. Those benefits are:

dental benefits limited to treatment of the mouth;

vision benefits limited to treatment of the eye;

medical indemnity insurance;

long-term, nursing home, home health, or community-based care; and

coverage limited to a specific disease or illness.

In addition, the City has confirmed with federal officials that beginning January 1st, 2014, individuals who have carryover balances in stand-alone HRAs that provide reimbursements for health care expenditures other than excepted benefits will not be eligible for federal subsidies on Covered California for any month they carry an HRA balance. Employees may still spend down their accounts, including by using it toward unsubsidized purchase of plans on Covered California (if the terms of the HRA allow), or they may permanently opt out and waive the balance in the account in order to auglify for a subsidy sooner. This rule affects HCSO covered employees, who are augranteed access to their HRA funds for 24 months from the date of the allocation. By cross-referencing HCSO data against data from the Office of the Treasurer and Tax Collector, OLSE estimates that a minimum of 35,469 employees (13%) had stand-alone HRAs in 2012, many of which will have rollover balances in 2014. These employees are likely to be part-time and/or low-wage employees. The carryover rule also affects employers who have employees with HRA balances. Under the ACA, these employers must allow employees to opt out of their HRAs at least once per year; and under the HCSO, these employers will need to use another strategy to make the required expenditures on behalf of employees who opt out.

It is important to note that the non-excepted benefit stand-alone HRA issue is a temporary one. Employers can continue to comply with the HCSO in other ways, and employees become eligible for premium subsidies as soon as they spend down their accounts or permanently opt out. Any remaining carryover accounts will expire by their own terms by the end of 2015.

Potential Affordability Concerns Remain for Some

The cost of living and doing business in San Francisco is high compared to other places in the state and the nation. Health insurance can also be expensive, with small businesses and part-time employees at high risk for not being able to afford coverage. While the ACA provides new coverage options through Medi-Cal and Covered California's individual and small business insurance exchanges, and offers federal subsidies in some cases, the high cost of living in San Francisco may keep health insurance out of reach for low- and middle-income individuals and familles. Meanwhile, ACA changes to HRAs potentially increase the cost of complying with the HCSO for small businesses. Such affordability concerns could translate to a lack of coverage, which ultimately becomes a financial concern for the City.

The UHC identified the following populations and entities as potentially facing affordability concerns beginning in 2014.

la -	Potential Affordability Concern
Individuals	Undocumented immigrants Part-time employees Employees of small business Families Individuals with Carryover Balances in Existing Stand-alone HRAs Individuals choosing to pay penalties
Employers	Small businesses (20-49 employees) Businesses relying on stand-alone HRAs Businesses choosing to pay penalties
City	Public health care system

Undocumented immigrants are ineligible to purchase insurance through Covered California and eligible only for limited Medi-Cal benefits. While low-income undocumented persons below age 65 will continue to have health care access through Healthy San Francisco or Healthy Kids, those whose income or age does not qualify them for these programs may not have access to affordable health care.

Part-time employees are less likely to have offers of employer-sponsored insurance, and are also more likely to be low- and middle-wage earners. ACA employer provisions do not extend employer-sponsored coverage to part-time workers. Employees working do 29 hours per week are covered by the HCSO, but those benefits may not cover the full cost of insurance. The ACA provides financial assistance for individuals with incomes between 138-400% of FPL (\$15,856-\$45,960 per year) when purchasing insurance on Covered California. The amount of the subsidy declines sharply between 250-400% of FPL, meaning that a person earning \$45,000 pays nearly the full price of premiums, which may be a deterrent to buying insurance.

Employees of small business are less likely than employees of large business to have insurance and are likely to pay more for premiums and deductibles than employees working for large businesses. Small business employees currently comprise a large number of enrollees in stand-alone HRAs.

Families may face financial and coverage concerns depending on an employer-sponsored offer of coverage. The ACA considers employer-sponsored coverage as affordable if an employee's contribution for self-only coverage is less than 9.5% of household income. However, family coverage can cost three to four times more than individual coverage, which could in practice be unaffordable for the family. Should a

family decide to decline employer coverage and purchase on Covered California, all family members covered under the employer's plan are barred from accessing federal subsidies on Covered California.

Employees with carryover stand-alone HRA balances will be considered to have satisfied the individual mandate during the months they retain a balance. If otherwise eligible for federal tax subsidies on Covered California, these employees will lose access to those subsidies during the months they carry a balance.

Individuals choosing to pay ACA penalties rather than purchase health insurance would remain uninsured and liable for all health related costs.

Small businesses with 20-49 employees have difficulty financing insurance for their employees for various reasons, including high cost and low employee participation in insurance, especially if the employees are low-wage earners. A small business also may not have the requisite number of full-time employees or a large enough workforce to negotiate affordable health insurance rates. Small employers generally operate on low profit margins and it is unclear whether Covered California's small business exchange will put health insurance within their reach.

Businesses relying on stand-alone HRAs as a mode of compliance with the HCSO anticipate the reversion of allocations that go unused for 24 months. These may be small businesses relying solely on HRAs, or larger businesses that offer HRAs to part-time or low-wage employees.

Having built the HRAs into their business strategy, these businesses face an increase in costs to the extent that they will have to move a portion of their HCSO spending to insurance or the City Option.

Businesses choosing to pay ACA penalties rather than provide health insurance would do so to save health insurance costs, but this may not be a cost-effective option for businesses that would still be required to comply with the HCSO.

The City's public health care system, operated by the Department of Public Health (DPH), absorbs the cost of care for those who are uninsured and/or indigent through its hospitals and clinics and the Healthy San Francisco program. To recover revenue losses related to caring for the uninsured, DPH draws from the City's General Fund. In the last three years, DPH has required \$248.7–336.5 million per year in General Fund support; these numbers reflect revenue shortfalls related to patient care only and do not include General Fund support for DPH's other programs and services. Currently, DPH projects that 49,000-53,000 San Franciscans will remain residually uninsured in 2014. A higher rate of insurance among San Franciscans may help to reduce DPH's revenue shortfall.

SUGGESTIONS OFFERED BY MEMBERS OF THE 2013 UHC

The UHC's suggestions for the City, collected throughout the process, are listed below. Like ideas were combined and grouped for ease of understanding and numbered for ease of reference. The order in which they are presented is not a reflection of priority. Each suggestion stands on its own and, as the UHC process did not require members to reach consensus, some suggestions may directly or indirectly conflict with others.

Maintain the Current Status

- Maintain the HCSO in its current form with robust monitoring and enforcement.
- Maintain Healthy San Francisco and Healthy Kids for those left out of the ACA.

Modify the HCSO to Mirror the ACA

- Align HCSO employer obligations with ACA employer provisions, and eliminate the Employer Spending Requirement for businesses with fewer than 50 employees.⁵
- Deem large and small employers that offer full- or part-time employees ACAcompliant health insurance as compliant with the HCSO and provide a "safe harbor" from any financial obligations that may remain under the HCSO.
- For large employers that choose to pay the ACA penalty, credit the amount of the ACA penalty toward compliance with HCSO.

Modify the HCSO Employer Spending Requirement

- Lower the health care expenditure rate (e.g., to reflect the current average health reimbursement account reimbursement rate of 24.6%.)⁶
- Tether health care expenditure rates to costs on Covered California, rather than to the 10-County Survey rate.
- Remove requirement for employers to make health care expenditures for employees who decline insurance.

⁵ The HCSO requires employers with 20+ employees to make health care expenditures on behalf of employees working a minimum of 8 hours per week in San Francisco. The ACA requires employers with 50+ full-time equivalent employees to offer affordable health insurance to employees working at least 30 hours per week.

⁴ The health care expenditure (HCE) rate is currently set to 75% (for large employers) and 50% (for small and medium employers) of the average contributions made by the 10 most populous California counties to their employees' health insurance. The 2014 rates are \$1.63/hour worked per employee for businesses with 20-99 employees, and \$2.44/hour worked per employee for businesses with more than 100 employees.

- Credit as valid health care expenditures only those funds that are irrevocably spent by employer.
- 10. Approve a method of HCSO compliance that allows for direct reimbursement of employee health expenses that does not require fully irrevocable, upfront expenditures for small businesses and does not jeopardize employee eligibility for ACA subsidies, such as excepted benefit health reimbursement accounts.
- 11. Restrict the amount of funds that can be allocated to excepted benefits health reimbursement accounts to a level that can reasonably be spent by an average employee in a year, and require employers to make remaining expenditures through another option.

Modify the City Option

Medical Reimbursement Accounts

- 12. Allow unused City medical reimbursement account funds to revert to employers after a certain time.
- 13. Petition Covered California to accept direct payments from City medical reimbursement accounts, saving employees the need to pay for premiums up-front.
- 14. Enforce the HCSO policy that allows unclaimed City medical reimbursement account funds to be transferred to the Department of Public Health to help defray the costs of indigent care.

Healthy San Francisco

- 15. Expand Healthy San Francisco eligibility to cover San Francisco residents not eligible for ACA coverage, including seniors without coverage, people exempt from the individual mandate, immigrants not eligible for publicly-subsidized coverage, individuals barred from subsidies due to the "family glitch," and those for whom insurance would cost more than eight percent of family income.
- 16. Delay the disenrollment of current Healthy San Francisco participants until after confirming that they have enrolled through Covered California.

⁷ The HCSO allows employees to waive HCEs made on their behalf only if they have employer-sponsored coverage, either from another employer or through a spouse's employer. Individual coverage whether burchased through Covered California or through the individual market, does not qualify for a waiver.

Create a New City Option

- 17. Create a wrap-around program funded by health care expenditures to pay for services not covered by Medi-Cal or Covered California plans (e.g., dental, vision).
- 18. Create a public benefit program that pools health care expenditures to support Healthy San Francisco for those ineligible for ACA coverage and to assist with premiums and out-of-pocket costs to assure the affordability of health insurance for those eligible for ACA coverage.

Address Carryover HRA Balances

- Work with employers to convert carryover health reimbursement accounts to City medical reimbursement accounts.
- 20. Work with employers to modify policies to keep carryover health reimbursement accounts from interfering with employee eligibility for health insurance subsidies on Covered California.
- 21. Work with employers to amend restricted carryover health reimbursement accounts to allow employees to spend down the balance to purchase insurance on Covered California.
- 22. Do not require employers to make additional health care expenditures for employees who opt out of carryover health reimbursement accounts.⁸

Conduct Outreach & Research

- 23. Conduct an extensive outreach campaign to educate employees about the consequences of and options for use of carryover health reimbursement account balances.
- 24. Disseminate educational materials highlighting the difference that City medical reimbursement accounts could make to the affordability of health insurance on Covered California.
- 25. Promote the City Option to employers as a means of complying with the HCSO for employees for whom they do not provide health insurance.
- 26. Aggressively market availability of unused City medical reimbursement accounts funds to account holders, in conjunction with a campaign to help enroll account holders into insurance on Covered California.

⁸ Under HCSO regulations, if an employee opts out of the HRA and waives his/her carryover funds, the employer is not considered to have met its HCSO obligations and is required to make valid health care expenditures in the amount of the waived funds.

- 27. Conduct further research and data analysis on affordability concerns for San Franciscans under the ACA.
- 28. Educate the community at large about continued access to health care services through existing charity care and sliding fee scale programs at health care providers throughout the City.

Other

- 29. Continue the UHC into 2014.
- Indemnify employers if they face federal penalties for following City's auidance on HCSO.

PUBLIC INPUT

The following were suggestions offered by members of the public.

- Small businesses that purchase insurance through the Small Business Health Options Program (SHOP) on Covered California should not be required to make the full amount of HCE for insured employees. The cost of SHOP plans is likely to be less than the annual HCE for a full-time employee, while providing comprehensive ACA-approved coverage.
- 2. Create a non-MRA HCSO compliance option specifically for small businesses.
- Because California law extends insurance to employees regularly working 20
 hours per week, the focus should be on solutions that provide insurance to
 employees working 20-30 hours/week.

Attachment '

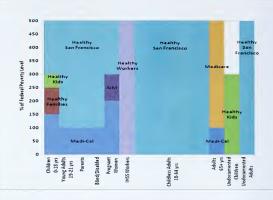
2013 UNIVERSAL HEALTHCARE COUNCIL MEMBERS				
Last Name	First Name	Organization		
Adams	Steve	President, San Francisco Small Business Commission		
Black	Rob	Executive Director, Golden Gate Restaurant Association		
Browner, MD	Warren	Chief Executive Officer, California Pacific Medical Center		
Chan, PharmD	Eddie	President/Chief Executive Officer, Northeast Medical Services		
Chung	Anni	President/Chief Executive Officer, Self Help for the Elderly		
Fields	Steve	Co-Chair, Human Services Network		
Fung, MD, PhD	Gordon	Member, San Francisco Medical Society Board of Directors		
Garcia	Estela	Chicano Latino Indigena Health Equity Coalition; Executive Director Instituto Familiar de la Raza		
Garcia, Co-Chair	Barbara	Director of Health, San Francisco Department of Public Health		
Gressman	John	President/Executive Director, San Francisco Community Clinic Consortium		
Grumbach, MD	Kevin	Professor & Chair of Family Practice, UCSF/SFGH; Co-Director, UCSF Clinical Translational Science Community Engagement and Health Policy Program; Co-Director, UCSF Center for Excellence in Primary Care		
Hauge	Scott	President, CAL Insurance & Associates; Founder, Small Business California		
Heilig	Steve	Policy Director, SF Medical Society		
Hernandez, MD, Co-Chair	Sandra	Chief Executive Officer, The San Francisco Foundation		
Jacobs	Ken	Chair, UC Berkeley Center for Labor Research and Education		
Lang	Perry	African-American Community Health Equity Council; Executive Director, Black Coalition on AIDS		
Laret	Mark	Chief Executive Officer, UCSF Medical Center		
Lewis	lan	Research Analyst, Unite Here Local 2		
Lazarus	Jim	Senior Vice President, SF Chamber of Commerce		
Melara	Sonia	President, San Francisco Health Commission		
Miller	Rebecca	Director, Workforce Development, United Healthcare Workers - West		
Muscat	Bob	Chair, Public Employees Committee, San Francisco Labor Council		
Naranjo	Fred	Principal, Scarborough Insurance Agency		

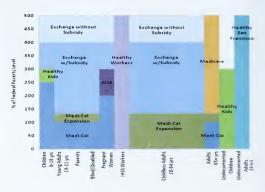
2013 UNIVERSAL HEALTHCARE COUNCIL MEMBERS					
Last Name	First Name	Organization			
Pappas	Michael	Executive Director, Interfaith Council			
Paulson	Tim	Executive Director, Labor Council			
Rhorer	Trent	Executive Director, San Francisco Human Services Agency			
Robisch	Christine	Senior Vice President & Area Manager, Kaiser Foundation Hospitals and Health Plan			
Rose	L. Wade	Vice President, External & Government Relations, Dignity Health			
Rosenfield	Ben	Controller, City and County of San Francisco			
Santiago, DPM	Amor	Asian & Pacific Islander Health Parity Coalition; Executive Director, APA Family Support Services			
Smith	Ron	Regional Vice President, Hospital Council of Northern and Central California			
Snay	Abby	Executive Director, Jewish Vocational Services			
Stead-Mendez	John	Deputy Executive Director, Field & Programs, SEIU Local 1021			
Storey	Brenda	Executive Director, Mission Neighborhood Health Center			
Thomas	Laurie	Rose Pistola & Rose's Café			
Thomason	Richard	Director, Health Care and Coverage, Blue Shield of California Foundation			
Valdes, MD	Ana	Medical Director, St. Anthony's Clinic			
Wright	Chris	Executive Director, Committee on Jobs			
Wulsin, Jr	Lucien	Executive Director and Founder, Insure the Uninsured Project			
Wunderman	Jim	President/Chief Executive Officer, Bay Area Council			
Yee	Brenda	Chief Executive Officer, Chinese Hospital			

Attachment 2

The following is a compilation of key data examined by the 2013 Universal Healthcare Council. Some of the content has been updated to reflect information that became available during the course of the UHC deliberations. More context and detail can be found in the full issue briefs and follow-up materials presented at UHC meetings. The information contained herein represents the City's best understanding to date of a dynamic situation, and some graphs and charts have been updated to reflect changes since the data's original presentation. This information is not intended to serve as legal advice regarding the ACA or the HCSO.

Affachment 2A. State and Federal Programs Available in San Francisco With full implementation of the Affordable Care Act, new state and federal health coverage options will be created for many San Franciscans.





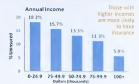
Current

Attachment 2B. Insurance Status in San Francisco

The graphs below detail the characteristics of San Franciscons with and without health insurance. Data reported are from the 2011 American Community Survey for the City and County of San Francisco.

Most San Franciscans have private insurance

Type of insurance	Age % of San Francisc ans			
	Under 18	18-34	35-64	45+
Private	65.7%	72.4%	71.4%	2.9%
Public	26.4%	8.4%	14.1%	51.99
Public & Private	4.3%	1.1%	2.7%	44.33
None	4.1%	21.81	11.87	0.9%

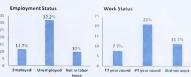


Most San Franciscan get health insurance through employment purchase 17% temployment grows of the product of th



Among all San Franciscans, 18-64 year olds, those who are unemployed, and those who work part time have the highest rates of uninsurance





Among those without insurance, the majority are employed, work part-time, and earn less than \$50,000 per year



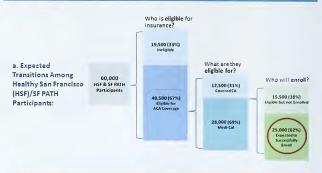




Attachment 2C. Residually Uninsured

a) Of the ~84,700 uninsured San Franciscons, ~60,000 are served by Healthy San Francisco-(HSF) and SF PATH, which is a program that will automatically transition enrollees into Medi-Cal In 2014. Given historical uptake rates and experience with the HSF population, approximately 25,000 of current HSF/SF PATH participants are expected to successfully enroll in ACA coverage.

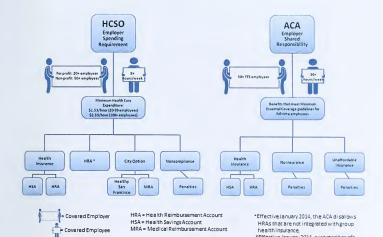
b) Using UC Berksley's CalSIM model to estimate insurance uptake rates among ~24,700 uninsured persons non enrolled in HSF/SF PATH, DPH estimates that a total of ~49,000 ~ 53,000 San Franciscans are likely to remain residually uninsured in 2014. The total residually uninsured number reflects persons ineligible for ACA coverage, as well as those who may be eligible but are unlikely to enroll for a variety reasons.



b. Total Residually Uninsured Estimates			
	Insurance Uptake Scenario Among Nor Uninsured Population		
Healthy San Francisco Uninsured + non-Healthy San Francisco Uninsured	Low	Mid	High
Total Eligible for ACA	58,722	58,722	58,722
Eligible-Expected to Enroll	31,395	33,607	35.362
EligibleLikely not to Enroll	27,327	25,115	23,360
Total Ineligible	25,975	25,975	25.975
# of all San Franciscans Residually Uninsured (Ineligible + Eligible Likely not to Enroll)	53,302	51,090	49,335
Residually Uninsured as % of Total Uninsured	63%	60%	58%
Residually Uninsured as % of San Francisco Population aged 18-64	9.1%	8.7%	8.4%

Attachment 2D. Key Employer Provisions under the Health Care Security Ordinance (HCSO) and the Affordable Care Act (ACA)

The HCSO covers a broader range of employers and employees than the ACA, and does not require health insurance as the only mode of compliance.



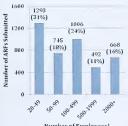
*Effective January 2014, excepted benefit HRAs will be allowed under the HCSO.

Attachment 2E. Comparison of ACA Employer Provisions and HCSO Employer Spending Requirement

	Large Employer Shared Responsibility under the ACA	Employer Spending Requirement under the HCSO
Effective Date	January 1, 2015	January 9, 2008
Covered Employer	Businesses with 50+ full-time equivalent (FTE) employees	Employers with: one employee warking at least 8 hours in SF and; • 20+ employees (medium, far-profit) • 50+ employees (medium, nan-profit) • 100+ employees (large, regardless of prafit status)
Covered Employee	Warking an annual average af 30 hours/week	Employed for 90÷ days; and Warking at least 8 haurs/week in SF
Employer Responsibility	Offer affordable self-only health insurance (defined as covering at least 60% of health costs with employee contribution 9.5% of household incame) to all covered employees (defined as at least 95% of FIEs) Employers with 2004 employees must automatically enroll employees in health coverage. Emplayee may refuse.	Make minimum Health Care Expenditures (HCE) for all covered employees via: Health insurance Health reimbursement accounts Payments to the City Option Any combination of the above, or By any ather means that provides health care or reimburses health care casts far covered employees
Minimum Contribution	Cast of affordable health caverage to 95% af full-time employees: ar Passible penalties	For 2014: \$ 1.63/hour paid (20-99 emplayees); \$2.44/hour paid (100+ emplayees) Capped at 172 hours/morth per covered emplayee Expenditures must be made w/in 30 days af end af each quarter
Penalties	For no coverage: \$2,000 annually/FIE beyond the first 30 For unaffordable coverage, lesser af: \$2,000 annually/FIE beyond the first 30; or \$3,000 annually/emplayee purchasing subsidized coverage on Covered CA	Failure to make HCE: full campensatory payment to employee and \$100/ employee/quarter Failure to submit annual reparting form: \$500/quarter Retaliation against employees: \$100/ targeted employee/day Nat allowing City access to records: \$25/employee with missing records/day Failure to maintain accurate or complete records: \$500/quarter
Reporting Requirement	Annual	Annual
Enforcement	United States Internal Revenue Service (IRS)	San Francisca Office of Labor Standards

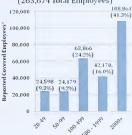
Attachment 2F. HCSO Compliance: The Numbers

Chart 1: Submissions by **Employer Size** (4,204 Total)



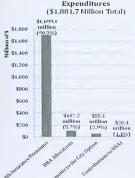
Number of Employees

Chart 2: Covered Employees (263,674 Total Employees)



Employer Size, # of Employees**

Chart 3: Reported Health Care Expenditures



In 2012, 4,204 employers made \$1.88 billion in health care expenditures to cover 264,674 employees. While 49% of covered employers are small/medium businesses (20-99 employees), 82% of covered employees work for large businesses with more than 100 employees. 90% of all health care expenditures made by

Attachment 2G. HCSO Compliance: The Numbers

The charts below are taken from the Abalysis of the 2012 Healthy, Care Security Ordinana Annual Reporting Forms, conducted by the Office of Labor Stangards Enforcement.

68% of HCSO covered employers offer health insurance to some or all of their employees (a and use of HRAs is highest among businesses with 20-99 employees (b).

a. COMPLIANCE STRATE	GIES	
COMPLIANCE STRATEGY	NUMBER OF EMPLOYERS	% OF TOTAL
Health Insurance Only* Health Insurance* + City	2407	57.3%
Option Health Insurance* + HRA	590 720	14.0% 17.1%
City Option Only	143	3.4%
HRA Only Other Strategy	190 154	4.5% 3.7%
Total Employers	4204	100.0%

b. EMPLOYERS UTILIZING HEA	LTH REIMBU	JRSEMENT A	ACCOUNTS (HI	RA)	
Number of Employees (EEs)	20-49 EEs	50-99 EEs	100-499 EEs	500+ EEs	Total
Employers with HRAs in 2012 (#)	336	212	223	225	996
Employers with HRA in 2012 (%)	26.0%	28.5%	22.2%	19.4%	23.7%
Employers with HRA in 2011 (%)	22.0%	24.9%	17.6%	17.7%	20.3%

By cross referencing the number of Covered Employees receiving Health Insurance with the number participating in HRAs, OLSE estimates that a minimum of 658 employers subject to the HCSO (16% of all) allocated funds to at least one stand-alone HRA in 2012.

E. EMPLOYEES WITH HEALTH REIMBURSEMENT ACCOUNTS (HRA) BY EMPLOYER SIZE

 Number of Employees (Efs)
 20-49 Ets
 50-99 Ets
 100-499 Ets
 500+ Ets
 Total Employees with HRAs (includes both stand-slone and integrated)
 6,112
 6,589
 11,723
 21,627
 46,051

By cross referencing the number of Covered Employees receiving Health Insurance with the number participating in HRAs, OLSE estimates a minimum of 35,469 HCSO covered employees (13% of all) had stand-alone HRAs in 2012.

d. EMPLOYEES RECEIVING CIT	Y OPTION	ONTRIBUTIO	ONS BY EMPL	OYER SIZE	
Number of Employees (EEs)	20-49 EEs	50-99 EEs	100-499 EEs	500+EEs	Total
Employees Receiving City Option Contributions	1,401	1,092	2,874	14,335	19,701

Attachment 2H. Comparison of Health Reimbursement Account (HRA) and City Option Medical Reimbursement Account (City MRA). This chart represents the City Lost understanding and Interpretation of a validation guidance. It does not constitute legisladvice of opinion.

	Health Reimbursement Account (HRA)	SF City Option Medical Reimburzement Account (MRA)
Contribution	Employer	Employer
End of year funds	May roll over. (HCSO requires HRA funds to be available for 24 months from the date of distribution. Employee may apt aut of rollover HRA.)	Roll over. (City MRA funds technically revert to the City after 18 cansecutive months of non-use. However in practice, the funds roll over in perpetuity and administratively closed accounts are reactivated at employee's request.
Considered by ACA to be a group health plan	Yes	No
Funds at termination of employment	Revert to employer. (HCSO requires HRA funds to be available to employees for 90 days after separation from employment.)	Remain available to employee
Restrictions	Employer may restrict benefits	Unrestricted: qualifying expenses defined more broadly than tax-exempt expenses
Types	Carryover Health Care HRAs Excepted Benefit HRAs	N/A
After ACA Market Reforms	Carryover Health Care HRAs:	Does not qualify as minimum essential coverage May be used toward premiums for individual coverage on Covered CA Does not disqualify employee from accessing income-based subsidies on Covered CA Overed CA

Attachment 21. Impact of ACA Insurance Market Reforms on HCSO Compliance Choices

	Employer Impact	Employee Impact
Group health insurance	Lorge employer may meet shared responsibility requirement through HCSO firinsurance is "offordable" for FI employees Small employer may be able to leverage tax credit and ESR to provide insurance May not be available aption for some part-time employees May not be stifficient to meet ESR Tax favored Premium payments may be irrevocable	Employer-sponsored health insurance will be more widely available to employees Will satisfy individual mandate Moy meet ACA definition of offordability without being affordable in practice
HRA	Employer must also offer health insurance unless employee is acovered by spouse's insurance or HRA only a covere excepted benefits Excepted benefits HRA may stand alone Must be "reasonably calculated to benefit employee" Tax favored Unused funds may be returned to employer offer 24 months.	2013 comyover bolances are considered minimum essential coverage Unrestricted corryover HRA funds may be used to buy unsubsidized insurance on Covered CA Eligible for subsidies month ofterspend down or permonent opt out Excepted Enerfits HRA provides only limited benefits to employee
City Option	No change to employer Doesn't satisfy shared responsibility provisions under ACA for employers required to offer group health insurance	Neither HSF nor MRA is minimum essential coverage Does not satisfy individual mandate Does not disqualify from premium subsidies MRA can be used to purchose insurance on Covered CA

Attachment 2J. Financial Considerations-Individuals and Families

The total cost of health care includes insurance premiums and out-of-pocket costs, which include deductibles, co-pays, and co-insurance. For individuals and familles, age, income, household size.

HCSO Employer Minimum Health Care Expenditures (per Covered Employee per Year) 6000 -20-99 employees 45 036 16 --- 100+ employees W 51631.22 33364.32 1000 \$2,518.00 ž 2000 25 692 16 \$1,002.21 24 28 32

\$4,355 \$6,533 \$8,710 \$10,888 \$13,045 \$13,243 \$17,420 \$19,598 \$21,773 Employee Earnings per Year at SF Minimum Wage (S)

Using 2014 expenditure rates, a person employed full-time in San Francisco can expect between \$3,300 and \$5,000 in annual health care expenditures from his/her employer, depending on employer size.

		zed Insurance

	40 hrs/wk	3-rolling	30 hrs/wk	35 ng/w	20 hollwi
MinWage	\$16.640	\$14,976	\$12,480	\$10.400	\$8,320
\$9/hr	\$18,720	\$16,849	\$14,040	\$11,700	\$9,360
\$10/Fr	\$20,800	\$14 100	\$15,600	\$13,000	\$10,400
\$11/hr	\$10,880	\$20,572	15 7160	\$14,300	\$11,450
\$12/hr	\$24.98	\$20,464	SERIE	\$15,600	\$12,480
\$13/hr	\$27,040	\$24,356	\$21,200	\$15,900	\$13,520
\$14/hr	\$29 120	\$20.78	\$1.25	Dear	\$14,560
\$15/hr	\$31,200	\$29,060	\$23.40	115.600	\$15,600
\$16/hr	\$33,280	\$29.952	\$24.960	\$2.800	\$16=47
\$17/hr	\$35,360	\$31,824	\$20,520	\$21.100	\$ 7500
\$18/hr	\$37,440	\$33.676	\$28.08.	\$21,400	\$18.72
\$19/hr	\$37.520	\$35,568	\$39.64	\$24.70	\$1.76
\$20/hr	\$41,600	\$37,440	\$3 200		\$200,000

Depending on wages and work schedule, low- and middle-income persons are eligible for no cost Medi-Cal or for federally subsidized coverage on Covered

Average Annual Worker Premium Contributions and Total Premiums for Covered Workers, Single and Family Coverage, by Firm Size, 2013



* Estimates are statistically different between All Small Firms and All Large Firms (pc.05). SOURCE: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2013

Family coverage can cost two to three times more than single coverage. For out-of-pocket costs. participants in employer-sponsored insurance face average annual deductibles of \$1,107/year for individuals and \$1700-\$4,000/year for families. Other out-of-pocket costs, such as co-pays and coplan.

Attachment 2J. Financial Considerations-Individuals and Families

Costs of health insurance on Covered CA can be greatly mitigated for persons who are aligible for substitized coverage (earning between 138-400% of FFL). Subsidies are tethered to the cost of the second-lowest cost silver plan, but may be used to purchase any plan. However, persons earning less than 250% of FPL are eligible for additional cost-sharing subsidies if they purchase the silver plan.

Cost of Plan Premiums on Covered CA by Household Size and Income

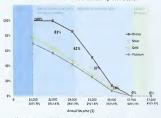
Household Size: 1 Age: 42	Premium Tax Credit	Final Cost (\$/month)				
Annual Income	(\$/month)	Bronze	Silver	Gold	Platinum	
\$16,000 (139% FPL)	\$243-345	\$1	\$1-93	\$101-179	\$150-283	
\$22,000 (191% FPL)	243-282	1-42	58-157	165-242	213-347	
\$28,000 (244% FPL)	208	35-116	132-231	239-317	288-421	
\$34,000 (296% FPL)	125	118-199	215-314	322-400	371-504	
\$45,000 [392% FPL]	34	209-290	306-405	412-490	461-595	
\$57,000 [496% FPL]	0	243-324	340-439	447-524	496-629	

At incomes below 250% of FPL, the combination of premium assistance tax credits and cost-sharing subsidies significantly reduces enrollee costs.

Household Size: 3 Ages: 36, 36, 5" Annual Income	Premium Tax Credit (\$/month)	Final Cost (\$/month)				
		Bronze	Silver	Gold	Platinum	
\$28,000 [143% FFL]	\$451-651	\$2	\$2-\$174	\$189-\$333	\$279-\$527	
\$37,000 (189% FPL)	451-546	2-56	86-269	284-428	374-622	
\$46,000 (235% FPL)	436**	15-166	195-309	394-538	484-732	
\$57,000 (292% FPL)	472**	96-285	322-553	571-753	685-997	
\$76,000 (369% FPL)	310	257-446	484-715	733-914	847-1159	
\$94,000 [481% FPL]	0	568-757	794-1025	1043-1227	1157-1471	

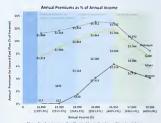
*Child may be eligible for Medi-Cal for incomes up to 250% of FPL.

**The subsidy in this case is higher at the higher income because it now includes the subsidy for the child, who was eligible for Medi-Cal at lower incomes.



Percent of Annual Premiums Subsidized by Income Level *

*Curves based on maximizm allowable annual tax credit and price of lowest cost plan in each ber, for a 42 year-old San Francisco resident. Out-of-pocket costs are not accounted for Values are shown for the Silver plan, to which the subsidies are techneed.



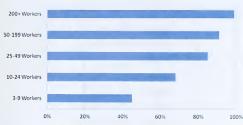
each tiver for a 47 year old San Francisco resident. Dollar values reflect annual grice of germum only out-of picket costs are not included.

As household income surpasses 250% of FPL, the amount of the subsidy declines sharply and cost-sharing assistance is no longer available (left graph). Effectively, this means that persons earning near 400% of FPL are likely to pay a higher percent of their annual income toward premiums than persons earning more or less than 400% of FPL (right graph). Below 400% of FPL, subsidies reduce cost, and above 400% of FPL, the cost is mitigated by higher incomes.

Attachment 2K. Financial Considerations-Employers

For employers, the ability to offer health insurance depends largely on business size and employee demographics. Larger businesses offen have more full-time employees and the strength of numbers to negotiate lower rates than small businesses.

Percentage of Firms Offering Health Benefits, by Firm Size, 2013



The larger an employer is, the more likely it is to offer health insurance to its employees.

SOURCE: Kaiser/HRET Survey of Employer-Sponsored Health Benefits 2013

Health
insurance
for small
business
has:
Higher

volatile pricing

Lower value products



Small businesses cite cost as the most important consideration in offering insurance.

Attachment 2K. Financial Considerations-Employers

Employee demographics strongly affect whether employees are etglible for insurance (as deemed by the insurance plan) and whether employees participate in an employer-sponsored plan.

Exhibit 3.3

Among Workers in Firms Offering Health Benefits, Percentage of Workers Eligible for Health Benefits Offered by Their Firm, by Firm Characteristics, 2013



Fewer employees are eligible for health benefits at firms that have high proportions (35% or more) of low-wage workers, may ownger workers. The discrepancy is most evident when considering part-time employees: at businesses that have more than 35% part-time workers, only 52% of employees are eligible for insurance, compared to 84% at businesses with fewer part-time workers.



% Eligible Workers Who

Participate in Employers' Plan

% Workers Covered by Their

Employers' Health Benefits

Eligibility, Take-Up Rate, and Coverage in Firms Offering Health Benefits by Firm Size, 2013

SCHROLL Kasser Family Foundation Employee Health Reports Conser 2013 Fabrics 3.7

% Workers Eligible For Employer-

offered Health Benefits

90%

Although more employees are eligible for insurance at businesses with fewer than 49 employees, the percent of employees participating in the plan is higher at firms with more than 49 employees. This is a reflection of higher costs for insurance in the small business market.

50-199 Workers
 200+ Workers

Affachment 2L. Financial Considerations-Public Health Care System
The cost of providing core to uninsured persons, passed on to the kind public term types.
The San Francisco Department of Public Health, IPPH) is the largest department in the CIN and draws heavily from the General Fund (GP). The largest proportion of 3PH expension and IPPH expension of APPH expension of APPH expensions allocated to delivering core to patients, including those who are seen through Healthy Jan Francisco and DPH hospitally and clinics. In the last three years, DPH has required \$248,7536.5 million per year from the General Fund to cover shortfally resulting from the cost of delivering health care services.

DPH Direct Patie	nt Costs FY 2010-11 to I	FY 2012-13	
	FY 2010-11 (\$)	FY 2011-12 (\$)	FY 2012-13 (\$)
Expenses	1,382,649,481	1,482,827,765	1,596,688,969
Revenues 1,096,922,204		1,234,116,532	1,260,184,512
GF Support	285,727,277	248,711,233	336,504,457



Frequently Asked Questions San Francisco Health Care Security Ordinance and the Affordable Care Act First Posted 10/21/2013

Most Recently Updated 12/20/2013

These answers are subject to change as new information or regulatory guidance becomes available.

The Patient Protection and Affordable Care Act (PPACA), commonly called the Affordable Care Act (ACA) or "Obamacare," is a federal statute signed into law by President Obama on March 23, 2010. Many provisions of the ACA are scheduled to go into effect on January 1, 2014. The OLSE is publishing this set of FAQs to address some of the most common questions we are receiving from San Francisco employers and employees regarding the ACA's impact on the San Francisco Health Care Security Ordinance.

1. OUESTIONS FROM EMPLOYERS

a) Is the HCSO Employer Spending Requirement scheduled to expire or go away when the ACA takes effect in 2014?

No, the HCSO Employer Spending Requirement is not scheduled to expire or go away when federal health reform takes effect in 2014. The ACA does not preempt or regulate the HCSO, and <u>Covered Employers</u> will be required to continue meeting the HCSO Employer Spending Requirement for their <u>Covered Employees</u> in 2014.

b) Has the Affordable Care Act changed federal rules and requirements regarding the use of stand-alone Health Reimbursement Accounts (HRAs)?

Yes, the Affordable Care Act has made significant changes to federal regulation and guidance regarding Health Reimbursement Accounts that may impact the permissibility of such contributions under federal law. Consult these federal resources and proper counsel when deciding whether such contributions comply with the ACA:

Preamble to the Interim Final Rules Implementing PHS Act Section 2711 (75 FR 37188, at 37191) (June 28, 2010)

https://webapps.dol.gov/federalregister/PdfDisplay.aspx?DocId=23983

FAQs about Affordable Care Act Implementation Part XI (January 24, 2013) http://www.dol.gov/ebsa/faqs/faq-aca11.html IRS Notice 2013-54 (September 14, 2013) http://www.irs.gov/pub/irs-drop/n-13-54.pdf

The HCSO has not changed, and contributions to reimbursement programs, including HRAs, will continue to be valid health care expenditures for the purpose of meeting the HCSO's Employer Spending Requirement. Section 14.1(b)(7)(A) of the HCSO establishes that contributions to a health savings account "or to any other account having substantially the same purpose or effect" are among the list of valid health care expenditures.

c) If my business elects to no longer allocates funds to HRAs, what are my options to satisfy the HCSO's Employer Spending Requirement in 2014?

The options available to your business for satisfying the HCSO's Employer Spending Requirement in 2014 and beyond remain the same.

The HCSO requires Covered Employers to make Health Care Expenditures to or on behalf of their covered employees each quarter. A Health Care Expenditure is any amount paid by a Covered Employer to its Covered Employees or to a third party on behalf of its Covered Employees for the purpose of providing health care services for Covered Employees or reimbursing the cost of such services for its Covered Employees.

Some examples of Health Care Expenditures that meet the requirements of the HCSO include:

- Payments to a third party to provide health care services for the Covered Employee, such as
 payments for health insurance or payments to a health care provider;
- Payments on behalf of the Covered Employee to the <u>City Option</u>;
- Contributions on behalf of the Covered Employee to a reimbursement program;
- Payments to the Covered Employee to reimburse the employee for costs incurred in the
 purchase of health care services; and,
- Costs incurred by the employer in the direct delivery of health care services for the Covered Employee.

d) If my business elects not to make HRA contributions commencing in 2014, what happens to existing HRA balances at the end of 2013?

Q10: A: Please see FAQs #11-16 below for more information on HRA balances remaining after December 31, 2013.

(Updated November 27, 2013)

e) Will my business still be able to contribute to the "City Option" as a means of complying with the Employer Spending Requirement in 2014?

Yes, your business will be able to contribute to the "City Option" as a means of complying with the Employer Spending Requirement in 2014.

f) How can I find out what new mandates the ACA places on my business?

The IRS website provides an overview of the tax provisions of the ACA that affect employers:

http://www.irs.gov/uac/Affordable-Care-Act-Tax-Provisions-for-Employers

Note that he ACA was scheduled to impose new requirements on employers effective January 1, 2014. These were to include new reporting requirements and "shared responsibility payments" for certain employers who failed to provide affordable health insurance to full-time employees.

However, on July 2, 2013, the U.S. Department of Treasury announced that employers will not be subject to these requirements until 2015.

For more information, see the Department's announcement.

g) What processes are under way to review the implementation of the ACA in San Francisco and examine how the ACA integrates with local policy?

Mayor Ed Lee recently reconstituted the Universal Healthcare Council to "examine San Francisco's implementation of the Federal Affordable Care Act (ACA) and engage stakeholders in identifying necessary local policies to support the implementation process." Changes to the HCSO could occur in the future if the Board of Supervisors takes legislative action or the OLSE adopts new regulations.

2. OUESTIONS FROM EMPLOYEES

a) What is the Individual Mandate of the Affordable Care Act?

Under The Affordable Care Act (ACA), starting in 2014, everyone must: 1) have minimum essential health coverage, 2) qualify for an exemption, or 3) pay a federal tax penalty.

Please note that receiving a health benefit from your employer does not necessarily meet the condition of having minimum essential health coverage. Please consult the following resources for more information:

- the <u>Questions and Answers on the Individual Shared Responsibility Provision</u> page maintained by the IRS, and
- the "Requirement to Buy Coverage under the ACA" <u>flowchart</u> from the Kaiser Family Foundation.

b) Where can I get more information about obtaining affordable health insurance for myself and/or my family?

The ACA provides new opportunities to get high-quality, affordable health insurance.

For more information, please check the following resources:

- . Covered California, the website for California's new health insurance exchange; and
- the Health Care Reform page maintained by the Healthy San Francisco program.

c) My employer currently offers an HRA. Will I be able to seek reimbursements through the HRA for my out-of-pocket health care expenses in 2014?

A: Please see FAQs #11-16 below for more information on HRA balances remaining after December 31, 2013.

(Updated November 27, 2013)

3. QUESTIONS FROM EMPLOYEES

a) Under the Health Care Security Ordinance (HCSO), what are an employer's obligations with respect to unused funds credited to stand-alone HRA accounts before January 1, 2014?

To constitute a Health Care Expenditure on behalf of a Covered Employee, the HCSO requires that a contribution designated or paid to a reimbursement program, which is not irrevocably paid to a third party, remain available to the Covered Employee for a minimum of 24 months from the date of contribution.

b) Given that most stand-alone HRAs will not comply with the requirements of the Affordable Care Act (ACA) that go into effect on January 1, 2014, will an employer face a federal tax penalty for continuing to administer its HRA (ie: without making new deposits) until the 24-month availability requirement is satisfied?

Probably not. Unused HRA funds credited before January 1, 2014, may still be used after December 31, 2013, in accordance with the terms of the HRA as they existed on January 1, 2013, without subjecting the employer to a penalty. However, the employer may not make any new contributions to non-ACA-compliant HRAs on or after January, 1, 2014, and some contributions made in 2013 may be subject to a ceiling.

d) Can employees use remaining HRA funds to purchase health insurance through Covered California?

Possibly. If an employer's HRA plan permits employees to seek reimbursement for health insurance premiums, employees may use HRA funds to reimburse the cost of health insurance premiums purchased through health care exchanges such as Covered California the same as any other health insurance coverage.

Please note, however, that employees with health reimbursement accounts will be ineligible for federal premium assistance tax credits (subsidies) when purchasing insurance through Covered California for any month in which HRA funds remain available to the employee. This is true regardless of whether the employee uses the HRA funds to buy insurance through the exchange, uses them for other reimbursable expenses, or does not use the funds at all.

e) Are there any federal tax consequences for employees who have access to funds remaining in an employer's Health Reimbursement Arrangement (HRA) after December 31, 2013?

Yes. The Internal Revenue Service considers an employee with a HRA to be enrolled in an employer-sponsored group health plan that constitutes "Minimum Essential Coverage." Beginning January 1, 2014, the Affordable Care Act requires each individual taxpayer to have Minimum Essential Coverage or pay a tax penalty. Employees with HRAs will not be subject to this penalty. However, as noted in question 3, employees with HRAs will also be ineligible for federal premium assistance tax credits for any month in which the HRA funds remain available to the employee.

f) Can employees opt out of HRAs and become eligible for federal premium assistance tax credits to assist with purchasing health insurance through Covered California?

Yes. Employees may forfeit the available funds. If they do so, those employees who meet certain residency, citizenship and income requirements and who do not have another source of Minimum Essential Coverage become eligible for federal premium assistance tax credits in the following month.

g) If an employee opts out of an HRA and forfeits funds before the funds have been available for 24 months from the date of contribution, what are the employer's responsibilities under the HCSO?

If an employee opts out of an HRA and forfeits available funds before those funds have been available for a minimum of 24 months from the date of contribution, the forfeited funds do not constitute Health Care Expenditures and do not satisfy the employer's obligations under the Employer Spending Requirement of the HCSO. A contribution designated or paid to a reimbursement program, which is not irrevocably paid to a third party, constitutes a health care expenditure only if that contribution remains available to the employee for a minimum of 24 months from the date of contribution and meets other conditions described in Section 14.1(b)(7)(B) of the Ordinance. If the forfeited funds were not available for a minimum of 24 months, the employer will be required to make a valid Health Care Expenditure of an equivalent amount through another HCSO compliance strategy. See Question 3 above for more information.

b) Where can I get more information about obtaining affordable health insurance for myself and/or my family?

The ACA provides new opportunities to get high-quality, affordable health insurance.

For more information, please check the following resources:

- · Covered California, the website for California's new health insurance exchange; and
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Probably not. Unused HRA funds credited before January 1, 2014, may still be used after December 31, 2013, in accordance with the terms of the HRA as they existed on January 1, 2013, without subjecting the employer to a penalty. However, the employer may not make any new contributions to non-ACA-compliant HRAs on or after January, 1, 2014, and some contributions made in 2013 may be subject to a ceiling.

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Please note, however, that employees with health reimbursement accounts will be ineligible for federal premium assistance tax credits (subsidies) when purchasing insurance through Covered California for any month in which HRA funds remain available to the employee. This is true regardless of whether the employee uses the HRA funds to buy insurance through the exchange, uses them for other reimbursable expenses, or does not use the funds at all.

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4. HCSO FAQS SECTION: HCSO AND EXCEPTED BENEFITS

a) What are "excepted benefits"?

"Excepted benefits" is a term used in the Affordable Care Act to describe certain kinds of health benefits that are "excepted" from some of the market reform requirements that the ACA requires other group health plans to meet. Excepted benefits are not "minimum essential coverage" and do not affect an employee's eligibility to receive a premium assistance tax credit when buying insurance on Covered California. Employers can provide excepted benefits whether or not they also provide health insurance.

Section 9832(c) of the Internal Revenue Code and its accompanying regulations contain the full list of excepted benefits and place some limits on how they can be offered. But only some of those excepted benefits also qualify as "health care services" under the HCSO. Those benefits are:

- dental benefits limited to treatment of the mouth:
- · vision benefits limited to treatment of the eye;
- · medical indemnity insurance;
- · long-term, nursing home, home health, or community-based care; and
- · coverage limited to a specific disease or illness.

Employers can provide excepted benefits to employees directly, through insurance, or by providing health reimbursement arrangements (HRAs).

b) Do employer payments for excepted benefits insurance premiums count as Health Care Expenditures under the HCSO?

Yes. Insurance premiums paid irrevocably to a third party for excepted benefits insurance plans that provide health care services constitute valid health care expenditures. Irrevocable payments to a third-party vendor for premiums for dental insurance, vision insurance, medical indemnity insurance, long-term, nursing home, home health, or community-based care insurance, and insurance limited to a specific disease or illness all count towards an employer's minimum required expenditures under the HCSO.

c) Does an employer's spending on a self-funded/self-insured excepted benefits plan qualify as a health care expenditure under the HCSO?

Yes. Expenditures for self-insured health plans, including self-insured plans that only provide Excepted Benefits, qualify as health care expenditures under the HCSO.

d) How does an employer that uses a self-funded/self-insured excepted benefits plan determine whether it has satisfied the Employer Spending Requirement of the HCSO?

HCSO Regulation 6.2(B)(2) provides that "[a] covered employer that provides health coverage to some or all of its covered employees through a self-funded/self-insured plan shall, with

respect to those employees, be deemed to comply with the spending requirement of this Ordinance if the preceding year's average expenditure rate per employee meets or exceeds the applicable expenditure rate (outlined in Regulation 5) for that employer."

Accordingly, after the first year that the employer uses the self-insured/self-funded plan, the employer will receive credit for health care expenditures based on the previous year's average actual expenditures per employee.

For the first plan year, the employer shall receive credit toward the employer spending requirement in the amount of the average actual expenditures per covered employee during the initial plan year. In order to receive credit for expenditures on self-insured/self-funded excepted benefits plans, the employer must request credit at the end of the calendar year and provide supporting documentation of actual expenditures on covered employees.

e) Do employer contributions to Excepted Benefit HRAs count as health care expenditures that satisfy the employer spending requirement under the HCSO?

Yes, provided they satisfy the HCSO's additional requirements for contributions to HRAs. If the unused portions of contributions to a HRA will revert to the employer, then the contributions only qualify as "health care expenditures" if: 1) they are reasonably calculated to benefit the employee; 2) the funds remain available to the employee for 24 months after the date of the contribution; 3) the employer provides the employee with written notice of the contribution within 15 days; and 4) the employer meets additional requirements regarding separated employees. See FAQ F14 for additional information about separated employees.

f) How will OLSE determine whether a contribution to an Excepted Benefits HRA is "reasonably calculated to benefit the employee"?

OLSE considers an employer's contributions to an excepted benefits HRA that do not exceed the employer's spending requirement for an employee who works an average of 20 hours per week to be reasonably calculated to benefit the employee, provided that the contributions meet all of the following criteria:

- (1) The contribution may be used without restriction for full reimbursement of all excepted benefits that are also qualifying "health care expenditures" under the HCSO (see FAQ O(4)(a) for a list of those excepted benefits);
- (2) The employee has at least a 90-day grace period after the contribution expires to submit claims for reimbursable expenses that the employee incurred before the contribution expired; and
- (3) The criteria listed in (1) and (2) are in place at the beginning of the initial plan year or on April 1, 2014, whichever is later.

g) What if my company's Excepted Benefits HRA plan does not meet the criteria in FAQ O(4)(f) or I make contributions in excess of my employer spending requirement for a 20-hour-per-week employee? Will OLSE still count my contributions toward satisfying my employer spending requirement?

Possibly. The HCSO does not control the terms and conditions the employer places on an excepted benefits HRA, nor does it place any limit on the dollar amount of contributions an employer can make on behalf of its employees. Employers retain complete discretion over those decisions regardless of the HCSO. Accordingly, OLSE anticipates that some employers will choose to make contributions to excepted benefits HRAs under different terms or in greater amounts than those described in FAQ O(2)(f). OLSE will credit such contributions toward the employer spending requirement as follows:

A) Employer contributions to an excepted benefits HRA that does not meet one or more of the criteria in FAQ O(4)(f).

To receive credit for contributions to an excepted benefits HRA that does not meet the criteria in FAQ O(4)(f), the employer must request credit at the end of the calendar year and provide supporting documentation showing that its contributions were reasonably calculated to benefit the employee. OLSE will presume that the contributions were reasonably calculated to benefit the employee if the reimbursement rate for the plan meets or exceeds the average reimbursement rate for excepted benefits HRAs that do comply with the criteria in FAQ O(4)(f). That presumption is rebuttable, and OLSE retains discretion to consider other factors, such as employee complaints, employer restrictions on reimbursable expenses, the employer's compliance with employee notification and reporting requirements, and other indicators of the employer's good faith. Reliance on advice from trade associations, brokers, or other private market actors will not be considered in determining employer good faith. If OLSE determines that the employer has not made the minimum required health care expenditures, the agency will require the employer to make remedy payments in the amount of the unmade health care expenditures and will assess penalties for noncompliance.

B) Employer contributions to an excepted benefits HRA that meets the criteria in FAQ O(2)(f) but exceed the employer spending requirement for an employee working an average of 20 hours per week.

Excess contributions will be credited toward the employer spending requirement in the amount that the employee actually uses the excess contributions. To receive credit for excess contributions, the employer must request credit at the end of the calendar year and provide supporting documentation of the employee's actual use.

BOARD of SUPERVISORS



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MEMORANDUM

TO:

Regina Dick-Endrizzi, Director

Chris Schulman, Commission Secretary

Small Business Commission, City Hall, Room 448

FROM:

Andrea Ausberry, Clerk, Land Use and Economic Development

Committee Board of Supervisors

DATE:

December 23, 2013

SUBJECT:

REFERRAL FROM BOARD OF SUPERVISORS

Land Use & Economic Development Committee

The Board of Supervisors' Land Use and Economic Development Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 131138

Hearing directed to the Department of Public Works, Municipal Transportation Agency (MTA), Public Utilities Commission, and Pacific Gas and Electric Company to explore a number of issues, including where projects are occurring. including sewer, water, natural gas, and road resurfacing, and what the benefits of these infrastructure improvements are; how the projects are coordinated to comply with the City's mandate that once a road is resurfaced no work will be done for five years -- absent an emergency -- to minimize repetitive street disruption; why some blocks remain under construction for very extended periods of time, with on-again-off-again work and repetitive digging; how blocks are chosen in terms of scheduling work; how many blocks are worked on annually and what the future schedule looks like; how departments are minimizing disruptions to the public caused by road work (parking, traffic detours, noise, dust, etc.); how contractors are held accountable for completing work in a timely manner, complying with contractual requirements, delivering high quality work. and minimizing impacts on surrounding neighbors; why some blocks, after undergoing utility work, only get paved on one side of the street and what we can do to prevent this; why it takes so long for MTA to re-stripe repayed roads, often months after the repaying is complete; how the various projects are funded and what the cost is per block; and what our goals are for improving pavement conditions

	r. Carlton B. Goodlett Place, San Francisco, CA
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RESPONSE FROM SMALL BUSINESS	S COMMISSION - Date:
No Comment	
Recommendation Attached	
	Chairperson, Small Business Commission



SMALL BUSINESS COMMISSION DRAFT MEETING MINUTES



CITY HALL, ROOM 400

1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102

552 1/13/14 draft

SMALL BUSINESS COMMISSIONERS

Stephen Adams, President Monetta White, Vice President Kathleen Dooley, Mark Dwight, Luke O'Brien William Ortiz-Cartagena, Irene Yee Riley

JAN 2 4 2014

Call to order and roll call.

The meeting was called to order at 5:33 PM. Commissioners Adams, Dooley, Dwight, Yee Riley, and White were present. Commissioner O'Brien arrived at approximately 5:34 PM, after consideration of Item 1. Commissioner Ortiz-Cartagena was absent.

2. General Public Comment. (Discussion Item)

General Public Comment was called for and two members of the public requested to speak.

Jordan Engel, whose family owns the property at 493 Broadway, spoke in opposition to BOS File No. 131120 [Planning Code, Zoning Map - Broadway Alcohol Restricted Use District]. Mr. Engel described his family's recent efforts to repair structural defects at the property and to replace what they perceive as undesirable business tenants with a more desirable lounge for professionals and neighborhood residents. He opposes the moratorium on the issuance of certain new liquor licenses the legislative item would impose, and perceives the legislation as directly targeting his family's building.

Stefano Cassolato, an agent for an attorney representing Jordan Engel and his family, stated he has conducted extensive outreach in the Broadway corridor related to the Engel family's proposal for its building at 493 Broadway. Mr. Cassolato expressed his opposition to moratoriums. He believes the Engel family's proposal for an ultra-lounge would be beneficial to Broadway street.

Public comment was closed.

3. Approval of the December 9, 2013 Joint SBC-SFMTA Board of Directors meeting minutes. (Action Item)

Explanatory Documents: Draft December 9, 2013 Joint SBC-SFMTA Board of Directors meeting minutes

Motion: Commissioner Dwight motioned to adopt the meeting minutes.

2nd: Commissioner Dooley

Aye: Adams, Dooley, Dwight, O'Brien, Yee Riley, and White

Nav: None

Absent: None

SMALL BUSINESS COMMISSION 1 Dr. Carlton B. Goodlett Place, Room 110 SAN FRANCISCO, CA 94102 415.554.6134

REGINA DICK-ENDRIZZI, EXECUTIVE DIRECTOR CHRISTIAN MURDOCK, ACTING COMMISSION SECRETARY

4. Approval of the December 9, 2013 special meeting minutes. (Action Item)

Explanatory Documents: Draft December 9, 2013 special meeting minutes

Motion: Commissioner Dwight motioned to adopt the meeting minutes.

2nd: Commissioner Dooley

Aye: Adams, Dooley, Dwight, O'Brien, Yee Riley, and White

Nay: None

Absent: None

5. Approval of the December 20, 2013 special meeting minutes. (Action Item)

Explanatory Documents: Draft December 20, 2013 special meeting minutes

Motion: Commissioner Dwight motioned to adopt the meeting minutes.

2nd: Commissioner Dooley

Aye: Adams, Dooley, Dwight, O'Brien, Yee Riley, and White

Nav: None

Absent: None

Discussion and possible action on overview of Final Report of the Universal Health Care Council and updated reporting requirements for recent "Health Care Security Ordinance" (HCSO). (Discussion and Possible Action Item)

Explanatory Documents: Report from the Universal Healthcare Council (UHC), FAQ's, San Francisco Health Care Security Ordinance and the Affordable Care Act

Director Dick-Endrizzi provided summary remarks describing the work of the Universal Health Care Council, which attempted to define the relationship between the Health Care Security Ordinance (HCSO) and the Affordable Care Act (ACA).

Colleen Chawla, Deputy Director of Health at the San Francisco Department of Public Health and Ellen Love, Office of Labor Standards Enforcement (OLSE), presented.

Ms. Chawla described major provisions of the ACA, including the individual mandate, large-employer mandate, and optional small business exchange. She also described the HCSO's two major components: the employer spending requirement, and the Healthy San Francisco program. Ms. Chowla then discussed various scenarios and how business owners would satisfy the requirements of both laws. She described a substantial change in light of the ACA's adoption related to Health Reimbursement Accounts (HRAs), and provided statistics of how many employers' compliance strategies were likely to change as a result.

Ms. Love next presented on the OLSE's recently-released HCSO-ACA compliance guidelines, upcoming reporting deadlines, and an upcoming rulemaking process by OLSE. She described scenarios regarding employer spending and obligations during the transition into implementation of the ACA. The rulemaking process is intended to clarify some outstanding issues relative to the relationship between the HCSO and ACA. Lastly, she reminded everybody that the annual HCSO employer reporting requirement is still in effect. Reports are due by April 30, and the OLSE expects to post the form online in early-March.

Several commissioners posed questions to Mses. Chowla and Love.

Commissioner Dwight inquired whether a business owner must still pay the HCSO's employer spending requirement even if an employee demonstrated proof of health insurance through a spouse's plan. Ms. Chowla confirmed that an employer would still be obligated to satisfy the spending requirement.

SMALL BUSINESS COMMISSION 1 Dr. Carlton B. Goodlett Place, Room 110 San Francisco, CA 94102 415,554.6134

REGINA DICK-ENDRIZZI, EXECUTIVE DIRECTOR CHRISTIAN MURDOCK, ACTING COMMISSION SECRETARY Commissioner White asked for clarification of what happens to employees with a balance of HRA funds that choose to keep the funds yet also pursue ACA exchange health coverage. Ms. Love clarified that the employees could keep and continue to use their HRA funds, as well as pursue health insurance on the ACA exchange, but would not be eligible for federal subsidies for the insurance purchase due to their remaining HRA funds.

Commissioner White then asked how an employer would satisfy its HCSO spending requirement if, in a similar scenario to that above, the employee instead opts out of the HRA. Ms. Love stated that the employer could make any valid HCSO expenditure to satisfy the employer spending requirement in lieu of the previous HRA spending. Options might include contributing to the City option (most likely a City-managed medical reimbursement account, or MRA), or an excepted benefits HRA (i.e. premiums for dental or vision coverage).

Commissioner White also asked how the City's MRA could be used to comply with both the HCSO and the ACA, but the HRA could not be used, given their similarities. Ms. Chowla explained that the MRA is considered a public benefit plan, which is treated differently under the ACA, while standalone (private) HRA's are not.

Commissioner Dooley requested an estimate on when the City's website would be updated to reflect that the CIy's MRA option was available to satisfy the HCSO now that the ACA is in effect. Ms. Chowla explained the Department of Public Health was currently in the process of making the update.

Commissioner White inquired about the outreach activities of DPH and OLSE related to employer compliance requirements. Ms. Love responded that OLSE has a hotline and e-mail address the public can use to ask questions. Those questions have also been used to develop a frequently asked questions (FAQ) resource on OLSE's website. There has not been specific outreach to merchant or business groups by OLSE.

Commissioner O'Brien asked if phasing out the HCSO would leave a gaping hole in coverage for individuals. Ms. Chowla indicated that without the HCSO, only employers with 50 or more employees would be mandated (by the ACA) to provide health insurance. Individuals not employed by such employers would themselves be mandated to obtain coverage under the ACA, but not all individuals would have affordable access due to varying levels of subsidies and eligibility to access the exchange.

Commissioner Yee Riley asked if the Office of Small Business has received many inquiries related to this issue? Director Dick-Endrizzi indicated OSB has communicated regularly on the issue through its monthly mewsletter and other outlets, and OSB has not received many inquiries. Director Dick-Endrizzi believes most businesses are receiving information from their existing benefits providers, the Chamber of Commerce, the Golden Gate Restaurant Association, and other groups. Many are also contacting OLSE. Donna Levitt, head of the OLSE, added that in a December mailing of annual labor standards poster updates and through a separate mailing to employers with 20 or more employees, businesses were notified of OLSE's compliance resources.

General Public Comment was called for and three members of the public requested to speak.

Jim Lazarus, San Francisco Chamber of Commerce, thanked the Commission for hearing this item. Mr. Lazarus described the ongoing HCSO employers spending requirement as a huge problem for smaller employers (20-49 employees), particularly those with a large part-time workforce, since the HRA is no longer a viable option for compliance. Nearly 1,000 San Francisco employers fall within this category and utilized HRAs for HLSO compliance prior to the ACA's implementation. The HRAs allowed employers to recover unspent contributions, which in the most recent year totaled \$80 million, or an average of \$80,000 per employer. A major financial stress will soon be upon this group of businesses who will now be mandated to contribute and commit in perpetuity the entire amount of their contributions. Mr. Lazarus asked for the Commission's help in fixing this problem.

Stephen Cornell of Small Business Network and the Council of District Merchants Associations, stated the HCSO will put San Francisco employers at a disadvantage relative to others in the region, state, and nation. Enforcement must be clear and consistent to minimize the disadvantage.

Scott Hauge, CAL Insurance, stated most small businesses use 35 or 40 hours worked per week as the standard for providing health insurance benefits to employees. Reducing that threshold to 30 hours per week is a

SMALL BUSINESS COMMISSION 1 Dr. Carlton B. Goodlett Place, Room 110 San Francisco, CA 94102 415.554.6134 substantial change. Mr. Hauge also expressed his confusion surrounding the necessity of the 20 hours per week limit imposed by the OLSE on excepted benefits HRA contributions. He believes the regulations allow employers to exceed 20 hours of contributions if an employee files for benefits in excess of that limit. Mr. Hauge also expressed confusion at how an employer could be required to "true up" its excepted benefits HRA each quarter, but an employer is also expected to wait at least 12-24 months to determine whether an employee will use its benefits. Finally, Mr. Hauge implored the City to issue clear guidelines on compliance given the complexity of the various accounts and options for employers.

Public comment was closed.

During Commissioner Comments, Commissioner Dwight stated he is an employer with 20-49 employees, and needs more time to understand the realities of compliance. The situation is so complex that he is relying on a benefits consultant to assist him.

Commissioner Dooley mentioned that one of her employers is also struggling with compliance and is experiencing a great deal of confusion.

Commissioner White is also relying on a benefits consultant to assist with her compliance.

No formal action was taken.

Discussion and possible action on Board of Supervisors File No. 131138 [Hearing - Roadwork and Infrastructure Oversight]. (Discussion and Possible Action Item)

Explanatory Documents: Hearing Referral (PDF)

Regina Dick-Endrizzi, Director of the Office of Small Business, presented. She noted that Supervisor Wiener solicited input from the Small Business Commission to inform his hearing at the Land Use and Economic Development Committee meeting of Monday, January 27, 2014. Director Dick-Endrizzi listed a number of items already believed to be of concern to the Commission in this regard.

Commissioner Dooley commented that it seems many projects finish with the construction phase, but parking restrictions and construction debris may remain in place for excessive periods of time. When this happens, it is very impactful to businesses. She would like a discussion of why this is occurring and how to improve it.

Commissioner Adams commented that Department of Public Works (DPW) and Pacific Gas and Electric (PG&E) outreach and communication have proven effective within the Castro for many years. Each agency attends merchant group meetings with project updates, and each has proven willing to schedule work around significant community events.

Public Comment was called for and no members of the public requested to speak.

No formal action was taken.

8. Director's Report. (Discussion Item)

Director Dick-Endrizzi presented a written and verbal Director's report.

9. Legislation and Policy Committee Report. (Discussion Item)

Commissioner Adams discussed the items heard by the Committee when it met earlier in the day preceding the Commission's regular meeting.

10. President's Report. (Discussion Item)

None.

11. Vice President's Report. (Discussion Item)

None.

SMALL BUSINESS COMMISSION 1 Dr. Carlton B. Goodlett Place, Room 110 San Francisco, CA 94102 415 554 6134

REGINA DICK-ENDRIZZI, EXECUTIVE DIRECTOR CHRISTIAN MURDOCK, ACTING COMMISSION SECRETARY

12. Commissioner Reports. (Discussion Item)

Commissioner Dooley mentioned she attended a business tax advisory group meeting, and participated in another Americans with Disabilities Act (ADA) working group meeting sponsored by Supervisor Tang. Commissioner Dooley also attended the Council of District Merchant Associations (CDMA) meeting on January 17, and will participate in the formula retail working group hosted by the Planning Department.

13. General Public Comment. (Discussion Item)

Public Comment was called for and no members of the public requested to speak.

14. New Business. (Discussion Item)

Commissioner O'Brien mentioned he will not seek reappointment for another term on the Commission, as his term expired on January 6, 2014. He desires to commit the time to his family and his children in particular. Commissioner O'Brien thanked Mayor Lee and former Mayor Newsom for providing an opportunity to serve. He also thanked his fellow commissioners, especially those who served during his one-year presidency. Finally, he thanked Director Dick-Endrizzi and the Office of Small Business staff for their support.

Commissioner Dwight suggested developing a "best practices" for general public comment to assist the public with most effectively communicating their concerns. He believes three-minutes creates a challenge for persons to articulate an argument, and feels it is rude to rush people away once their time has expired.

Commissioner White stated she wanted to ensure there is a means of tracking and following-up on new business items.

Commissioner Adams commended Commissioner O'Brien for his service and thanked him for his mentorship when Commissioner Adams started on the Commission.

Director Dick-Endrizzi thanked Commissioner O'Brien for his service and for his thoughtful, deliberate comments on legislation.

15. Adjournment. (Action Item)

Motion: Commissioner Dwight motioned to adjourn.

2nd; Commissioner Dooley

Aye: Adams, Dooley, Dwight, O'Brien, Yee Riley, and White

Nav: None

Absent: Ortiz-Cartagena

The meeting was adjourned at 7:10 PM.

SMALL BUSINESS COMMISSION 1 Dr. Carlton B. Goodlett Place, Room 110 San Francisco, CA 94102 415.554.6134









SMALL BUSINESS COMMISSION NOTICE OF MEETING & AGENDA



Monday, January 27, 2014 2:00 P.M. CITY HALL, ROOM 400 1 Dr. Carlton B. Goodlett Place. San Francisco. CA 94102

SMALL BUSINESS COMMISSIONERS

Stephen Adams, President Monetta White, Vice President Kathleen Dooley, Mark Dwight, Luke O'Brien William Ortiz-Cartagena, Irene Yee Riley JAN 2 4 2014

- 1. Call to order and roll call.
- General Public Comment: Allows members of the public to comment generally on matters within the Commission's purview, and suggest new agenda items for the Commission's future consideration. (Discussion Item)
- 3. Approval of the January 13, 2014 regular meeting minutes. (Action Item)

Explanatory Documents: Draft January 13, 2014 regular meeting minutes

- 4. Presentation of a Small Business Commission Certificate of Honor recognizing Commissioner Luke O'Brien for more than four years of service on the Commission. (Discussion Item)
- 5. Discussion and possible action to make recommendations to the Small Business Commission on Board of Supervisors File No. 131192 [Police, Administrative Codes Considering Criminal History in Employment and Housing Decisions]: Ordinance amending the Police Code to require employers and housing providers to limit the use of criminal history information, and follow certain procedures and restrictions when inquiring about and using conviction history information to make decisions about employment and tenancy in Stracks; and amending the Administrative Code to require City contractors and subcontractors to adhere to the same limits, procedures, and restrictions when making decisions regarding employment of persons for work on City contracts and subcontracts. (Discussion and Possible Action Item)

Explanatory Documents: BOS File No. 131192; BOS File No. 131192 Legislative Digest

Presentation by Andrea Bruss, Legislative Aide to Supervisor Malia Cohen

6. Discussion and possible action to make recommendations to the Small Business Commission on Board of Supervisors File No. 131062 [Police Code - Reporting Information About Employees of Private Parking Garages and Parking Lots]: Ordinance amending the Police Code to require applicants for commercial parking permits to provide the residential zip code, gender, and duration of employment for employees and other individuals working in parking lots or parking garages. (Discussion and Possible Action Item)

Explanatory Documents: BOS File No. 131062; BOS File No. 131062 Legislative Digest

Presentation by the legislative sponsor, Supervisor Scott Wiener

SMALL BUSINESS COMMISSION 1 Dr. Carlton B. Goodlett Place, Room 110 San Francisco, CA 94102 415.554.6134

REGINA DICK-ENDRIZZI, EXECUTIVE DIRECTOR CHRISTIAN MURDOCK, ACTING COMMISSION SECRETARY

7. Presentation on implementation of the Gross Receipts Tax and ongoing education and outreach activities by the Office of Treasurer and Tax Collector. (Discussion Item)

Explanatory Documents: Gross Receipts Tax General Presentation; Outreach Presentation; Outreach Event Schedule

Presentation by Greg Kato, Office of the Treasurer and Tax Collector

- Election of Officers Small Business Commission President: In accordance with the Commission's Rules of Order, Article II, Section 3, an election of the President must occur at the regular meeting of the Commission in January of each year. The President shall serve a term of one year, and shall be elected upon a vote of the Commission. (Action Item)
- Election of Officers Small Business Commission Vice President: In accordance with the Commission's
 Rules of Order, Article II, Section 3, an election of the Vice President must occur at the regular meeting of the
 Commission in January of each year. The Vice President shall serve a term of one year, and shall be elected
 upon a vote of the Commission. (Action Item)
- 10. Director's Report: Update and report on the Office of Small Business and the Small Business Assistance Center, update on department programs, recent announcement from the Mayor, newly introduced policy matters, update on legislative matters, and announcements regarding small business activities. (Discussion Item)
- 11. President's Report: Allows the President to report on recent small business activities and make announcements that are of interest to the small business community. (Discussion Item)
- 12. Vice President's Report: Allows the Vice President to report on recent small business activities and make announcements that are of interest to the small business community. (Discussion Item)
- 13. Commissioner Reports: Allows Commissioners to report on recent small business activities and make announcements that are of interest to the small business community. (Discussion Item)
- 14. General Public Comment: Allows members of the public to comment generally on matters within the Commission's purview, and suggest new agenda items for the Commission's future consideration. (Discussion Item)
- New Business: Allows Commissioners to introduce new agenda items for future consideration by the Commission. (Discussion Item)
- 16. Adjournment. (Action Item)

Public comment will be taken before or during the Small Business Commission's consideration of each agenda item. Copies of explanatory documents and other related materials listed in this agenda are available for download by linking to the website agenda or www.sfgov.grébe, and are available for public inspection and/or copying at City Hall, Room 110. Please call Christian Murdock at (415) 554-6407 to make arrangements for pick up or review.

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Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that city operations are open for the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-6083. To obtain a free copy of the Sunshine Ordinance contact:

City Hall, Room 244 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4683 Office: (415) 554-7724 Fax: (415) 554-5163 F.-Mail:

sotf@sfgov.org

Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website at www.sfgov.org.

Cell Phone and/or Sound-Producing Electronic Device Usage at Hearings

Effective January 21, 2001, the Board of Supervisors amended the Sunshine Ordinance by adding the following provision: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

Disability Access Policy

Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART Station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible MUNI lines serving the Veterans Building are 42 Downtown Loop and the #7I Haight/Noriega and the F line to Market and Van Ness and the Metro stations at Van Ness and Market and at Civic Center. For more information about MUNI accessible services call 923-6142. Accessible parking in the vicinity of the Veterans Building adjacent to Davies Hall and the War Memorial Complex. American Sign Language interprets and/or a sound enhancement system will be available upon request by contacting Milton Edelin at 558-6410 at least 72 hours prior to a hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please held the city to accommodate these individuals.

Translation Services

Interpreters for languages other than English are available on request. Sign language interpreters are also available on request. For other accommodation, please call the Department of Human Services staff support representative at 557-5989 at least two business days before a meeting.

Lobbyist Ordinance

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by San Francisco Lobbyist Ordinance [Article II of the San Francisco Campaign and Governmental Conduct Code] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 25 Van Ness Ave., Suite 220, SF 94102 (415) 252-3100, FAX (415) 252-3112 and web site address at http://www.sfgov.org/ethics/.

Chemical Sensitivity

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical base products. Please help the City accommodate these individuals.

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REGINA DICK-ENDRIZZI, EXECUTIVE DIRECTOR CHRISTIAN MURDOCK, ACTING COMMISSION SECRETARY



BOS File No: 131192

Title: Police, Administrative Codes - Considering Criminal History in Employment and Housing Decisions

Legislation Overview:

Ordinance amending the Police Code to require employers and housing providers to limit the use of criminal history information, and follow certain procedures and restrictions when inquiring about and using conviction history information to make decisions about employment and tenancy in San Francisco; and amending the Administrative Code to require City contractors and subcontractors to adhere to the same limits, procedures, and restrictions when making decisions regarding employment of persons for work on City contracts and subcontracts.

Sponsor(s): Kim, Cohen, Avalos, Campos, Chiu, Mar

Date Introduced: 12/10/2013

Date Referred: N/A

Description:

This legislation would apply limitations on employers, housing providers, and city contractors and subcontractors related to their inquiries about and use of criminal history information when making employment and housing decisions. Given the purview of the Small Business Commission, this legislative summary will not address housing providers (except in certain contexts from a small business perspective), but will instead focus primarily on employers. It should be assumed that the same limitations and requirements applying to employers shall also apply to contractors and subcontractors, except where an exception is noted. The same assumption should not be made regarding housing providers, although the legislation generally treats all three groups in a substantially similar manner.

OVERVIEW

The legislation seeks to address the problem of recidivism and its associated criminal justice and societal costs by facilitating the successful reintegration into society of persons with arrest and conviction records. It would attempt to accomplish this by preventing the automatic exclusion of those with prior arrests and convictions from accessing suitable employment and housing. The specific provisions therein were developed after extensive meetings between the legislative sponsor and business groups, criminal justice experts, community advocates, and others. Participants included San Francisco Chamber of Commerce, Small Property Owners of San Francisco, African-American Chamber of Commerce, Lawyers

Committee for Civil Rights, Public Defender, District Attorney, and Commissioner Ortiz-Cartagena.

The legislation would become operative 180 days from enactment, and shall only allow prospective claims (those occurring after the operative date).

APPLICABILITY

In general terms, the legislation regulates two major elements of the hiring and promotional processes: 1) When an employer may inquire into past arrests and convictions, including which types of arrests and convictions may be subject to inquiry; and, 2) How an employer may use information of past arrests and convictions when making employment decisions.

Employers with 20 or more employees, regardless of the employees' locations, with one or more employees within San Francisco, would be subject to this legislation for applicants and current employees applying to work or working within San Francisco. Contractors and subcontractors performing under agreements with and within the City valued greater than \$5,000 would also be subject to the legislation.

The definition of *employer* includes job placement and referral agencies, but does not include the City or any other unit of government (the City has its own policies on background checks and conviction

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Title: Police, Administrative Codes - Considering Criminal History in Employment and Housing Decisions

history). Property developers and property managers shall be subject to the legislation when making housing decisions related to affordable housing financed in any part with City funding.

The definition of employment is written broadly in this legislation, as follows:

Any occupation, vocation, job, or work, including but not limited to temporary or seasonal work, parttime work, contracted work, contingent work, work on commission, and work through the services of a temporary or other employment agency, or any form of vocational or educational training with or without pay. The physical location of the employment or prospective employment of an individual as to whom Section 4904 applies must be in whole, or in substantial part, within the City.

INOUIRIES RELATED TO ARREST AND CONVICTION HISTORY

The legislation prescribes when in the hiring process and about which types of arrests and convictions an employer may inquire. It distinguishes between two categories of past arrests and convictions when regulating the type and timing of background inquiries. In the first category, arrests and convictions that are of a certain age, have been "dismissed" or "expunged," or for which sentencing included a diversionary program, may not be inquired about and may not be considered in any employment-related decisions:

- "... an employer shall not, at any time or by any means, inquire about, require disclosure of, or if such information is received base an Adverse Action in whole or in part on [any of the following]:
- An Arrest not leading to a Conviction, excepting under circumstances identified in this Section an Unresolved Arrest;
- 2) Participation in or completion of a diversion or a deferral of judgment program;
- A Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative, by way of example but not limitation, under California Penal Code sections 1203.4, 1203.4a, or 1203.41;
- 4) A Conviction or any other determination or adjudication in the juvenile justice system, or information regarding a matter considered in or processed through the juvenile justice system; or
- 5) A Conviction that is more than seven years old, the date of Conviction being the date of sentencing."

This provision eliminates an employer's ability to make hiring or promotional decisions based on prior arrests or convictions of these types. An employer may not ask about these types of arrests or convictions at any point during the hiring process and, if it learns about them subsequent to a pre-hiring background check, may not alter its hiring decision as a result.

The second category includes prior arrests or convictions not covered by one of the five specified exceptions. For such arrests and convictions, an employer may inquire about and base employment decisions upon them, but not before the first live interview, or at the employer's discretion, after a conditional offer of employment. A "live interview" includes an in-person, telephone, videoconference, or similar interaction.

USE OF ARREST AND CONVICTION HISTORY

Beyond simply regulating the process for obtaining arrest and conviction history information, the legislation would also regulate the manner in which such information may be used for hiring and promotional decisions. It specifies in Section 4904(f) that

"in making an employment decision based on an applicant's or employee's Conviction History, an Employer shall conduct an individualized assessment, considering only Directly-Related Convictions,

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Title: Police, Administrative Codes - Considering Criminal History in Employment and Housing Decisions

the time that has elapsed since the Conviction or Unresolved Arrest, and any evidence of inaccuracy or Evidence of Rehabilitation or Other Mitigating Factors."

Adverse employment actions may only be based on directly-related convictions, meaning those convictions with a direct and specific negative bearing on a person's ability to perform the duties related to the employment position. The employer must consider whether the position offers the opportunity or circumstances for the same or similar crime to be committed. The legislation also requires an employer to consider any evidence submitted by an applicant claiming inaccuracy of the information, personal rehabilitation that has occurred, or other mitigating factors. If, after deliberation as specified in the legislation, an employer still takes an adverse employment action based upon arrest or conviction history, the employer must furnish an applicant with a copy of a questionnaire summarizing the review process and decision made. The questionnaire shall be on a form supplied by the City's Office of Labor Standards Enforcement (OLSE).

MISCELLANEOUS PROVISIONS - NOTICES AND ADVERTISING

In addition to governing the inquiry into and authorized uses of arrest and conviction histories, the legislation has several other miscellaneous provisions. It requires certain notifications by an employer to an applicant throughout the process, including:

- Prior to any conviction history inquiry, a Section 4905(b) notice from OLSE (similar to other common employer notices);
- Prior to obtaining a copy of a background check report, a notice that such a report is being sought;
- Upon obtaining a background check report, a notice of the right to provide evidence of inaccuracy, rehabilitation, or other mitigating factors regarding any arrests or convictions in the report, along with the deadline for submitting the evidence, pursuant to Section 4904.

Two additional related provisions govern employer advertising for employment opportunities. The first prohibits employer advertising that directly or indirectly expresses that any person with an arrest or conviction history will not be considered for employment or may not apply for employment. The second requires that all solicitations or advertisements likely to reach persons whose future employment would be within San Francisco to state that the employer will consider for employment qualified applicants with criminal histories in a manner consistent with the legislation.

ENFORCEMENT

Enforcement of this legislation is intended to be primarily administrative. The OLSE is charged with oversight responsibilities, including investigation and citation, as well as developing an outreach and education plan upon the legislation's adoption. Violations are limited to procedural missteps by an employer, not the validity of a bona fide business reason for taking an adverse action.

An applicant or employee must lodge a complaint within 60 days of the suspected violation, upon which OLSE may initiate an investigation. Employers may appeal adverse determinations to a hearing before a hearing officer whose determination shall be final. Further appeals must be filed in San Francisco Superior Court.

Penalties are structured in three tiers. A warning and notice to correct shall be issued, and technical assistance provided to aid with compliance, upon any violation (initial or subsequent) within the first 12 months the legislation is in effect. After that, all initial violations shall receive the same warning, notice, and assistance. Second violations (beyond the initial 12 month period) shall subject an employer to a maximum \$50 penalty per violation for each applicant or employee the violation involved, payable to the City. For third and subsequent violations, the penalty amount shall increase to no more than \$100. In

BOS File No: 131192

Title: Police, Administrative Codes - Considering Criminal History in Employment and Housing Decisions

Staff Assessment:

The legislation as proposed will greatly change the recruitment and promotion procedures of covered employers (to include contractors/subcontractors). The impact may be greatest on employers with significant turnover or large seasonal hiring fluctuations. Its requirements will create costs associated with staff training, altering employment advertisements, updating paper and online forms, establishing recordkeeping procedures, providing notices, preparing questionnaires, maintaining records, reporting to and responding to inquiries from OLSE, and other required activities. Recruitment processes may take longer and cost more as additional candidates must be screened and interviewed before disqualifying those with directly-related convictions. However, the broader social and economic goals the legislation seeks to advance may justify the initial and ongoing expenses for businesses.

It is difficult to disagree with the sponsor's assertion that highly qualified candidates are routinely denied employment opportunities simply due to any criminal conviction, under any circumstances, from any point in their lives. Many such determinations have proven arbitrary and have harmed a growing segment of the population, with serious consequences. As a result, the sponsor is proposing a government solution to this market failure.

The legislation appears to strike a reasonable balance between fairness to individuals and protection for businesses. If anything, the balance remains in favor of businesses. It does not interfere with a business's ability to deny employment or advancement to an individual whose criminal history is likely to impact his or her ability to properly perform the duties required. Most importantly, there is no test of a business's bona fide reason for denying an applicant employment or promotion. Rather, the ordinance only seeks to ensure satisfactory procedural performance and recordkeeping.

The reporting and oversight experiences of those subject to the ordinance – employers with 20 or more employees - will probably be similar to those associated with the City's other employer mandates, which are also administered by OLSE. These include the Health Care Security Ordinance and Family Friendly Workplace Ordinance. Enforcement provisions provide for very modest penalties in the event of an inadvertent violation of any provision.

Overall, there is little in the ordinance of significant concern for small businesses.

Departments/Organizations to Consult:

Legislation and Policy Committee Review:

The Committee heard this item on 1/13/2014, receiving a staff presentation by Ivy Lee, legislative aide to Supervisor Jane Kim. Ms. Lee described the extensive industry outreach involved with this legislation's development. A few amendments are expected within the next couple weeks, but not to the core elements of the proposal. The Committee voted 3-0 to forward the item to the full Commission, and showed universal support.

LEGISLATIVE DIGEST

[Police, Administrative Codes - Considering Criminal History in Employment and Housing Decisions]

Ordinance amending the Police Code to require Employers and Housing Providers to limit the use of criminal history information and follow certain procedures and restrictions when inquiring about and using conviction history information to make decisions about employment and tenancy in San Francisco; and amending the Administrative Code to require City contractors and subcontractors to adhere to the same limits, procedures, and restrictions when making decisions regarding employment of persons for work on City contracts and subcontracts.

Existing Law

The City has no law regulating the use of criminal history in employment and housing decisions generally, or with respect to employment decisions of City contractors. As for its own work force, the City has rules governing employment decisions that are similar to the provisions in the proposed ordinance. There are a number of state and federal laws, including regulations of state and federal agencies, that address the use of criminal history information in the employment context, including in some circumstances requiring that it be considered or requiring that persons with certain criminal backgrounds not be hired in certain positions.

Amendments to Current Law

The proposed ordinance would place limits on and establish procedures for the use of criminal history information by employers, housing providers, and City contractors and subcontractors.

The proposed ordinance would cover employers with 20 or more employees regardless of location, but would only apply to employment situations located in whole or in substantial part in San Francisco. Regarding employment, there are three essential features of the ordinance.

- 1. Certain matters off-limits. Certain aspects of criminal history may not be considered in any manner or at any time by an employer. These are: (a) an arrest not leading to a conviction (other than an arrest that is still the subject of a criminal investigation or trial); (b) participation in or completion of a diversion or deferral of judgment program; (c) a conviction that has been expunged or otherwise made inoperative; (d) a conviction or other determination in the juvenile justice system; and (e) a conviction that is more than 7 years old (measured from date of sentencing).
- 2. "Ban the box." An application form may not contain an inquiry regarding criminal history. Nor may the employer otherwise inquire about criminal history at the beginning of the hiring process. Rather, such inquiry is permissible only after the first live interview with the person or, at the employer's discretion, after a conditional offer of employment.

- 3. A process for considering criminal history. If the timing is proper (2 above), the employer may inquire about criminal history and may receive information through a background check report. The employer must follow a process intended to promote relevance, inclusion, and accountability.
 - Relevance: In addition to not being able to consider certain items (1 above), the
 employer may consider only those convictions and unresolved arrests that
 directly relate to the employment position in question. And the employer must
 also consider the time that has elapsed since the occurrence giving rise to the
 conviction or unresolved arrest.
 - Inclusion: The person (typically an applicant but in some circumstances an employee) must be given an opportunity to present evidence that the criminal history information about them is inaccurate, and to present evidence of rehabilitation or other mitigating circumstances.
 - Accountability: If there is a denial of employment, the employer must complete
 a simple, short questionnaire documenting the above process.

The proposed ordinance also requires employers to post a notice at its offices and work sites informing persons of their rights under the ordinance, and to maintain records of their employment decisions that would be sufficient for the Office of Labor Standards Enforcement (OLSE) to monitor compliance. OLSE is given enforcement authority regarding violations of the ordinance.

The proposed ordinance's approach to City contractors is similar. As for housing providers, the approach is similar, too, although there are some differences and refinements. The "accountability" process is somewhat different, not involving a questionnaire. The Human Rights Commission (HRC), rather than OLSE, is given enforcement authority regarding violations of the housing provisions of the ordinance. The housing providers covered are those that own or develop affordable housing in the City and who receive funding from the City, directly or through financing resulting from the issuance of tax-exempt bonds, as well as owners and developers of affordable units within the meaning of the Planning Code.

Under the proposed ordinance, the OLSE and HRC are given authority to sponsor community outreach programs to familiarize the public, and particularly individuals with a criminal history, with the protections of the ordinance. This function may be delegated to or shared with community-based organizations.

1	[Police, Administrative Codes - Considering Criminal History in Employment and Housing			
2	Decisions]			
3	Ordinance amending the Police Code to require employers and housing providers to			
4	limit the use of criminal history information and follow certain procedures and			
5	restrictions when inquiring about and using conviction history information to make			
6	decisions about employment and tenancy in San Francisco; and amending the			
7	Administrative Code to require City contractors and subcontractors to adhere to the			
8	same limits, procedures, and restrictions when making decisions regarding			
9	employment of persons for work on City contracts and subcontracts.			
0				
1	NOTE: Unchanged Code text and uncodified text are in plain Arial font. Additions to Codes are in single-underline italics Times New Roman font.			
2	Deletions to Codes are in strikethrough italies Times New Roman font. Board amendment additions are in double-underlined Arial font.			
3	Board amendment deletions are in strikethrough Arial font. Asterisks (* * * *) indicate the omission of unchanged Code			
4	subsections or parts of tables.			
5				
6	Be it ordained by the People of the City and County of San Francisco:			
7	Section 1. The San Francisco Police Code is hereby amended by adding Article 49			
8	Sections 4901-4920, to read as follows:			
9	Costillate 1907 1929, to read as islients.			
0	ARTICLE 49: PROCEDURES FOR CONSIDERING ARRESTS AND CONVICTIONS			
1	AND RELATED INFORMATION IN EMPLOYMENT AND HOUSING DECISIONS			
2	2 (04			
3	Sec. 4901. Policy.			
4	Sec. 4902. Findings.			
5	Sec. 4903. Definitions.			

1	Sec. 4904.	Procedures for Use of Criminal History Information in Employment		
2		Decisions.		
3	Sec. 4905.	Notice and Posting Requirements for Employers.		
4	Sec. 4906.	Employer Questionnaire.		
5	Sec. 4907.	Procedures for Use of Criminal History Information in Housing		
6		Decisions.		
7	Sec. 4908.	Notice and Posting Requirements for Housing Providers.		
8	Sec. 4909.	Exercise of Rights Protected; Retaliation Prohibited.		
9	Sec. 4910.	Implementation and Enforcement of Employment Provisions.		
10	Sec. 4911.	Employer Records.		
11	Sec. 4912.	Implementation and Enforcement of Housing Provisions.		
12	Sec. 4913.	Housing Provider Records.		
13	Sec. 4914.	Rulemaking.		
14	Sec. 4915.	Outreach.		
15	Sec. 4916.	Other Legal Requirements.		
16	Sec. 4917.	Preemption.		
17	Sec. 4918.	City Undertaking Limited to Promotion of General Welfare.		
18	Sec. 4919.	Severability.		
19	Sec. 4920.	Operative Date.		
20				
21	SEC. 4901. POLIC	<u>Y.</u>		
22	It is the policy of the City and County of San Francisco to enhance public health and safety by			
23	reducing recidivism and its associated criminal justice costs and societal costs, and facilitating the			
24	successful reintegration into society of persons with arrest and conviction records. This Article is			

enacted for the purpose of furthering this policy.

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SEC. 4902. FINDINGS.

After public hearings and consideration of testimony and documentary evidence, the Board of Supervisors finds and declares that the health, safety, and wellbeing of San Francisco's communities depend on increasing access to employment and housing opportunities for people with arrest or conviction records in order for them to effectively reintegrate into the community and provide for their families and themselves. Barriers to these opportunities for people with arrest or conviction records increase recidivism and thereby jeopardize the safety of the public, disrupt the financial and overall stability of affected families and of our communities, and impede the City's achieving its maximum potential of economic growth. Further, establishing procedures for the lawful use of criminal history information in employment and housing decisions can assist employers and housing providers by preventing the automatic exclusion of individuals who may be qualified, and in some cases well-audified, employees or tenants.

In San Francisco, as across the country, individuals are often plagued by old or minor arrest or conviction records that discourage them from applying for jobs or housing because a "box" on the application requires disclosure of criminal history information that likely will automatically exclude them from consideration. Precise statistics in this area are difficult to come by, but by any measure the problem is major, affecting a large number of individuals and families. By one measure, some sixty-five million Americans have a criminal record that may show up on a routine background check report. In California, it has been estimated that almost one in four adults have arrest or conviction records. Many thousands of people in our local community are directly impacted by barriers to reintegration based on these records.

In today's digital age, there has been widespread proliferation in the use of criminal background checks, with hundreds of companies offering over the internet low-cost criminal background checks. Surveys have shown that as many as ninety percent of employers and eighty percent of private housing providers conduct background checks. And the information that such

background checks may yield can have a devastating impact on the employment and housing opportunities of persons with a criminal history, with damaging spillover effects on families and communities. One study found that two-thirds of employers surveyed in five major U.S. cities would not knowingly hire a person with a criminal record, regardless of the offense. Another study found that a criminal record reduces the likelihood of a job callback or offer by nearly fifty percent. Among those seeking assistance from the San Francisco Public Defender's Clean Slate program, a pool of individuals with a criminal record, only about one-third are employed, and the majority of those employed earn an annual income of \$3,000 or less.

The problems presented by employers and housing providers who use a person's criminal history to deny that person employment or housing opportunities are growing rather than diminishing. In response to this challenge, more than fifty cities and counties in the United States have adopted policies that to one degree or another regulate the inquiry into an individual's criminal history, at least as to individuals employed by those localities. Eleven of those localities apply their policies to those who contract with them. The cities of Philadelphia, Newark, Seattle, and Buffalo have applied their policies to all private employers within their boundaries. At the state level, ten states have adopted policies to address this challenge and four states—Hawaii, Massachusetts, Minnesota and Rhode Island--have applied their policies to private employers. The economic rationale often cited for these reforms is to maximize the pool of talented, qualified workers for employers and to fully utilize the productive capacity of people with prior arrests or convictions, for the improvement of the economy.

Regulating inquiries into an individual's criminal history is gaining traction as one facet of the nationwide effort to reduce the recidivism that leads to serial incarceration. A major rationale for this movement is the growing awareness that incarceration has devastating socioeconomic consequences.

Researchers have found that more incarceration has the perverse effect of increasing the crime rate in some communities. Children suffer academically and socially, and have decreased economic mobility, after the incarceration of a parent. Incarceration is also linked to homelessness, impacting public

health and safety. Twenty-six percent of homeless people surveyed in San Francisco had been incarcerated within the previous twelve months, and an estimated thirty to fifty percent of parolees in San Francisco are homeless.

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On October 1, 2011, San Francisco and the rest of California implemented AB 109, a "Realignment" of California's criminal justice system, which seeks to produce budgetary savings by reducing recidivism and promoting rehabilitation. As stated by Governor Edmund G. Brown, Jr. in signing AB 109, cycling people through the revolving door of "state prisons wastes money, aggravates crowded conditions, thwarts rehabilitation, and impedes local law enforcement supervision." Added by AB 109, Section 3451 of the California Penal Code states that counties must focus on alternatives to incarceration that have a proven track record of reducing recidivism. Moreover, Section 17.5 of the Penal Code states that criminal justice policies that rely on building and operating more prisons to address community safety concerns are not sustainable, and will not result in improved public safety. Removing unnecessary obstacles to employment and housing that impede reintegration and rehabilitation supports the goals for "Realignment."

Lack of employment and housing are significant causes of recidivism; people who are employed and have stable housing are significantly less likely to be re-arrested. For example, one study of 1,600 individuals recently released from prison in Illinois found that only eight percent of those who were employed for a year committed another crime, compared to the state's average recidivism rate of fifty-four percent. In another study, researchers found that from 1992 to 1997, the slightly more than forty percent of the decline in the overall property crime rate could be attributed to the thirty-three percent decline in the unemployment rate during the same period. Still another study in New York reported that a person without stable housing was seven times more likely to re-offend after returning from prison. There is little doubt that a policy designed to improve the employment and housing prospects of persons with arrest or conviction history will enhance their prospects for becoming productive members of the community, and thereby benefiting all of us.

Policies that encourage reintegration and reduce recidivism can also help reduce criminal
justice costs. The Legislative Analyst Office estimated that in 2005-2006, counties in California spent
on average about \$28,000 per year to incarcerate an adult in jail and about \$1,250 per year to
supervise an adult on probation in the community. One study estimated that in terms of court,
prosecution, and law enforcement costs, the County spends an average of \$16,379 to process a person
who has committed a drug offense through the criminal justice system. When a person successfully
reintegrates and does not return to the criminal justice system, these costs are avoided, allowing scarce
public dollars to be reinvested in programs that make our communities stronger and safer.

Not only is it a matter of public safety to ensure that workers have job and housing opportunities, but it is also critical for a stable economy. Economists at the Center for Economic and Policy Research used Bureau of Justice Statistics data to estimate that in 2008, the United States had between 12 and 14 million formerly incarcerated people and people with felonies of working age. Citing this population's greatly reduced job prospects, the researchers estimated that the total male employment that year was reduced by 1.5 to 1.7 percentage points and that the cost to the U.S. economy was between \$57 and \$65 billion in lost output.

The expansion of the criminal justice system and all of its attendant consequences described herein, coupled with the growth of the for-profit criminal background check industry, has created a need for local regulations on the use of arrest and conviction records. On March 29, 2011, the Reentry Council of the City & County of San Francisco, chaired by the Chief Adult Probation Officer, and comprised of that official and the District Attorney, Mayor, Public Defender, and Sheriff, urged the the enactment of an ordinance to reduce unnecessary barriers to housing and employment for individuals based on arrest or conviction records. This Article is an important part of implementing that general recommendation.

But there are some senses in which this Article is of limited scope. This Article does not intend, and shall not be construed, to require an employer to give preference to anyone or to hire an

unqualified person with an arrest or conviction record. Nor does it require a housing provider to give preference to anyone or to rent to an unqualified tenant with an arrest or conviction record. Moreover, this Article shall not be construed to limit an employer or a housing provider's ability to choose the most qualified and appropriate candidate from applicants for employment or housing.

SEC. 4903. DEFINITIONS.

11.

For the purposes of this Article, the following words and phrases shall mean and include:

"Adverse Action" in the context of employment shall mean to fail or refuse to hire, to discharge, or to not promote any individual; or to limit, segregate or classify employees in any way which would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect his/her status as an employee. The "Adverse Action" must relate to employment in whole or substantial part in the City. "Adverse Action" in the context of housing shall mean to evict from, fail or refuse to rent or lease real property to an individual, or fail or refuse to continue to rent or lease real property to an individual, or fail or nefuse to an existing lease, or to reduce any tenant subsidy The "Adverse Action" must relate to real property in the City.

"Affordable Housing" means any residential building in the City that has received funding from the City, either directly or through financing resulting from the City's issuance of tax exempt bonds.

Affordable Housing also includes "affordable units" in the City as that term is defined in Article 4 of the Planning Code.

"Arrest" shall mean a record from any jurisdiction that includes information indicating that a person has been questioned, apprehended, taken into custody or detention, or held for investigation, by a law enforcement, police, or prosecutorial agency and/or charged with, indicted, tried, or acquitted for any felony, misdemeanor or other criminal offense. "Arrest" is a term that is separate and distinct from, and that does not include, "Unresolved Arrest."

"Background Check Report" shall mean any criminal history report, including but not limited to those produced by the California Department of Justice, the Federal Bureau of Investigation, other

law enforcement or police agencies, or courts, or by any consumer reporting agency or business. employment screening agency or business, or tenant screening agency or business.

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"City" shall mean the City and County of San Francisco. "Conviction" shall mean a record from any jurisdiction that includes information indicating that a person has been convicted of a felony, misdemeanor or other offense; provided that the conviction is one for which the person has been placed on probation, fined, imprisoned, or paroled. Those matters identified in Section 4904(a) and/or Section 4907(a) about which an Employer and/or Housing Provider may not inquire and as to which they may not base an Adverse Action, are not considered "Convictions."

"Conviction History" shall mean information regarding one or more Convictions or Unresolved Arrests, transmitted orally or in writing or by any other means.

"Directly-Related Conviction" in the employment context shall mean that the conduct for which a person was convicted or that is the subject of an Unresolved Arrest has a direct and specific negative bearing on that person's ability to perform the duties or responsibilities necessarily related to the employment position. In determining whether the conviction or Unresolved Arrest is directly related to the employment position, the Employer shall consider whether the employment position offers the opportunity for the same or a similar offense to occur and whether circumstances leading to the conduct for which the person was convicted or that is the subject of an Unresolved Arrest will recur in the employment position, "Directly-Related Conviction" in the housing context shall mean that the conduct for which a person was convicted or that is the subject of an Unresolved Arrest has a direct and specific negative bearing on the safety of persons or property, given the nature of the housing. In determining whether the conviction or Unresolved Arrest is directly related to the housing, the Housing Provider shall consider whether the housing offers the opportunity for the same or a similar offense to occur and whether circumstances leading to the conduct for which the person was convicted will recur in the housing, and whether supportive services that might reduce the likelihood of a recurrence of such conduct are available on-site. Those matters identified in Sections 4904(a) and/or Sections 4907(a) about which an Employer and/or Housing Provider may not inquire and as to which they may not base an Adverse Action may not qualify as "Directly-Related Convictions." Employer" shall mean any individual, firm, corporation, partnership, labor organization, group of persons, association, or other organization however organized, that is located or doing business in the City, and that employs 20 or more persons regardless of location, including the owner or owners and management and supervisorial employees. "Employer" includes job placement and referral agencies and other employment agencies. "Employer" does not include the City and County of San Francisco, any other local governmental unit, or any unit of the state government or the federal government.

"Employment" shall mean any occupation, vocation, job, or work, , including but not limited to temporary or seasonal work, part-time work, contracted work, contingent work, work on commission, and work through the services of a temporary or other employment agency, or any form of vocational or educational training with or without pay. The physical location of the employment or prospective employment of an individual as to whom Section 4904 applies must be in whole, or in substantial part, within the City.

"Evidence Of Rehabilitation Or Other Mitigating Factors" may include but is not limited to a person's satisfactory compliance with all terms and conditions of parole and/or probation (however, inability to pay fines, fees, and restitution due to indigence shall not be considered noncompliance with terms and conditions of parole and/or probation); employer recommendations, especially concerning a person's post-conviction employment; educational attainment or vocational or professional training since the conviction, including training received while incarcerated; completion of or active participation in rehabilitative treatment (e.g., alcohol or drug treatment); letters of recommendation from community organizations, counselors or case managers, teachers, community leaders, or parole/probation officers who have observed the person since his or her conviction; and age of the person at the time of the conviction. Examples of mitigating factors that are offered voluntarily by the

1	person may include but are not limited to explanation of the precedent coercive conditions, intimate
2	physical or emotional abuse, or untreated substance abuse or mental illness that contributed to the
3	conviction.
4	"Housing Provider" shall mean an entity that owns or develops Affordable Housing in the Cit
5	and receives funding from the City for such projects, either directly or through financing resulting fro
6	the City's issuance of tax exempt bonds. "Housing Provider" also includes owners and developers of
7	below market rate housing in the City or "affordable units," as that term is defined in Article 4 of the
8	Planning Code, in the City. Any agent, such as a property management company, that makes tenancy
9	decisions on behalf of the above described entities shall also be considered a Housing Provider.
10	"HRC" shall mean the Human Rights Commission or any successor department or office. The
11	"Director" of HRC shall mean the department head of the HRC.
12	"Inquire" shall mean any direct or indirect conduct intended to gather information from or
13	about an applicant, candidate, potential applicant or candidate, or employee, using any mode of
14	communication, including but not limited to application forms, interviews, and Background Check
15	Reports.
16	"OLSE" shall mean the Office of Labor Standards Enforcement or any successor department of
17	office. The "Director" of OLSE shall mean the head of the OLSE.
18	"Person" shall mean any individual, person, firm, corporation, business or other organization
19	or group of persons however organized. "Person" often means an individual with a Conviction
20	History or Unresolved Arrest or with a record pertaining to the matters identified in Section 4904(a)
21	and/or Section 4907(a).
22	"Unresolved Arrest" shall mean an Arrest that has led to a pending criminal investigation or
23	trial that has not yet been resolved.
24	SEC. 4904. PROCEDURES FOR USE OF CRIMINAL HISTORY INFORMATION IN
25	EMPLOYMENT DECISIONS.

1	(a) Regarding applicants or potential applicants for employment, or employees, an
2	Employer shall not, at any time or by any means, inquire about, require disclosure of, or if such
3	information is received base an Adverse Action in whole or in part on:
4	(1) An Arrest not leading to a Conviction, excepting under circumstances identified
5	in this Section an Unresolved Arrest;
6	(2) Participation in or completion of a diversion or a deferral of judgment program;
7	(3) A Conviction that has been judicially dismissed, expunged, voided, invalidated,
8	or otherwise rendered inoperative, by way of example but not limitation, under California Penal Code
9	sections 1203.4, 1203.4a, or 1203.41;
10	(4) A Conviction or any other determination or adjudication in the juvenile justice
11	system, or information regarding a matter considered in or processed through the juvenile justice
12	system; or
13	(5) A Conviction that is more than seven years old, the date of Conviction being the
14	date of sentencing.
15	Accordingly, the matters identified in this subsection (a) may not be considered in any manner
16	by the Employer.
17	(b) The Employer shall not require applicants or potential applicants for employment or
18	employees to disclose on any employment application the fact or details of any Conviction History, any
19	Unresolved Arrest, or any matter identified in subsections (a)(1)-(5). Nor shall the Employer inquire
20	on any employment application about the fact or details of any Conviction History, any Unresolved
21	Arrest, or any matter identified in subsections (a)(1)-(5).
22	(c) The Employer shall not require applicants or potential applicants for employment, or
23	employees, to disclose, and shall not inquire into, their Conviction History or an Unresolved Arrest
24	until either after the first live interview with the person (via telephone, videoconferencing, use of other
25	technology, or in person) or, at the Employer's discretion, after a conditional offer of employment.

1	(d) Prior to any Conviction History inquiry, the Employer shall provide a copy of the notice
2	described in Section 4905(b) to the applicant or employee.
3	(e) Prior to obtaining a copy of a Background Check Report, the Employer shall comply
4	with all state and federal requirements including but not limited to those in the California Investigative
5	Consumer Reporting Agencies Act (ICRAA), California Civil Code sections 1786 et seq., and the
6	Federal Consumer Reporting Act (FCRA), 15 United States Code sections 1681 et seq., to provide
7	notice to the applicant or employee that such a report is being sought. The Employer must also
8	provide the applicant or employee notice in writing of his or her right pursuant to this Section 4904 to
9	provide the Employer with evidence of inaccuracy or Evidence of Rehabilitation or Other Mitigating
10	Factors regarding any items of Conviction History found in the report, and the deadline for providing
11	such information. For such information to be required to be considered by the Employer, the applican
12	or employee must give the Employer notice, orally or in writing, of such information within seven days
13	of the date that the report is sent by the Employer to the applicant or employee.
14	(f) In making an employment decision based on an applicant's or employee's Conviction
15	History, an Employer shall conduct an individualized assessment, considering only Directly-Related
16	Convictions, the time that has elapsed since the Conviction or Unresolved Arrest, and any evidence of
17	inaccuracy or Evidence of Rehabilitation or Other Mitigating Factors.
18	(g) If an Employer intends to base an Adverse Action on an item or items of Conviction
19	History found in the applicant or employee Background Check Report and the applicant or employee
20	submits evidence of the items' inaccuracy or Evidence of Rehabilitation or Other Mitigating
21	Circumstances within the required time period, the Employer shall delay any Adverse Action for a
22	reasonable time after receipt of the information and during that time shall reconsider the prospective
23	Adverse Action in light of the information.

(h) Upon taking any final Adverse Action based upon the Conviction History of an applican
or employee, an Employer shall deliver to the applicant or employee a copy of the completed
questionnaire described in Section 4906.
(i) It shall be unlawful for any Employer to produce or disseminate any solicitation or
advertisement that is reasonably likely to reach persons who are reasonably likely to seek employment
in the City, and that expresses, directly or indirectly, that any person with an Arrest or Conviction
will not be considered for employment or may not apply for employment.
(j) Nothing in this Section 4904 shall be construed to prohibit an Employer from observing
the conditions of a seniority system or an employee benefit plan, provided such systems or plans are no
a subterfuge to evade the purposes or requirements of this Article.
SEC. 4905. NOTICE AND POSTING REQUIREMENTS FOR EMPLOYERS.
(a) The Employer shall state in all solicitations or advertisements for employees that are
reasonably likely to reach persons who are reasonably likely to seek employment in the City, that the
Employer will consider for employment qualified applicants with criminal histories in a manner
consistent with the requirements of this Article.
(b) The OLSE shall, by the operative date of this Article, publish and make available to
Employers, in English, Spanish, Chinese, and all languages spoken by more than 5% of the San
Francisco workforce, a notice suitable for posting by Employers in the workplace informing applicants
and employees of their rights under this Article. The OLSE shall update this notice on December 1 of
any year in which there is a change in the languages spoken by more than 5% of the San Francisco
workforce. At a minimum the notice described above shall contain the following information:
(1) A description of those matters identified in Section 4904(a) that may not be
considered by the Employer under any circumstances;

1	(2) A description of the restrictions and requirements that Section 4904 imposes on
2	Employers when inquiring about Conviction History in connection with an employment or hiring
3	decision;
4	(3) The definition of Evidence of Rehabilitation or Other Mitigating Factors
5	provided in Section 4903, and under what circumstances the applicant or employee has a right to
6	provide such evidence;
7	(4) The OLSE telephone number and email address that the applicant or employee
8	may use to make a report if he or she believes the Employer has violated any of the provisions of
9	Article 49.
10	(c) Employers shall post the notice described in subsection (b) in a conspicuous place at
11	every workplace, job site, or other location under the Employer's control frequently visited by their
12	employees or applicants, and shall send a copy of this notice to each labor union or representative of
13	workers with which they have a collective bargaining agreement or other agreement or understanding.
14	The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the
15	employees at the workplace, job site, or other location at which it is posted.
16	SEC. 4906. EMPLOYER QUESTIONNAIRE.
17	(a) The OLSE shall, by the operative date of this Article, publish and make available to
18	Employers, a questionnaire to be completed by the Employer prior to taking any final Adverse Action
19	against an applicant or employee on the basis of his or her Conviction History, that contains at a
20	minimum the following information:
21	(1) A statement that the notice is being provided in order to comply with Article 49
22	of the San Francisco Police Code.
23	(2) Questions that shall prompt the Employer to provide the following information in
24	yes/no or multiple choice_format:

1	(A) Whether, and if so when, the applicant or employee was asked to
2	voluntarily disclose information about his or her Conviction History;
3	(B) Whether, and if so when, a Background Check Report was obtained by
4	the Employer;
5	(C) If the applicant or employee requested a copy of the Background Check
6	Report and any items of Conviction History appeared on the report, whether the applicant or employee
7	submitted any evidence of inaccuracy or Evidence of Rehabilitation or Other Mitigating Factors;
8	(D) Whether the Employer gave consideration to any information by the
9	applicant or employee of the report's inaccuracy or to any Evidence Of Rehabilitation Or Other
10	Mitigating Factors;
11	(E) Whether the Employer gave any consideration to the amount of time
12	elapsed since the conviction or release from incarceration or conduct that is the subject of an
13	Unresolved Arrest;
14	(F) Whether the employment position at issue would give the applicant or
15	employee the opportunity to commit the same or similar offenses;
16	(G) Whether the circumstances leading to the conduct for which the applicant
17	or employee was convicted or that is the subject of an Unresolved Arrest would recur in the
18	employment position at issue; and
19	(H) The OLSE telephone number and email address that the applicant or
20	employee may use to make a report if he or she believes the Employer has violated any of the
21	provisions of Article 49.
22	(b) Upon taking any Adverse Action an Employer shall deliver to the applicant or employee
23	a copy of the completed questionnaire.
24	SEC. 4907. PROCEDURES FOR USE OF CRIMINAL HISTORY INFORMATION IN
25	HOUSING DECISIONS.

1	(a) Regarding applicants or potential applicants for housing, and their household members
2	a Housing Provider shall not, at any time or by any means, inquire about, require disclosure of, or if
3	such information is received base an Adverse Action in whole or in part on:
4	(1) An Arrest not leading to a Conviction, excepting under circumstances identified
5	in this Section an Unresolved Arrest;
6	(2) Participation in or completion of a diversion or a deferral of judgment program,
7	(3) A Conviction that has been judicially dismissed, expunged, voided, invalidated,
8	or otherwise rendered inoperative, by way of example but not limitation, under California Penal Code
9	sections 1203.4, 1203.4a, or 1203.41;
10	(4) A Conviction or any other determination or adjudication in the juvenile justice
11	system, or information regarding a matter considered in or processed through the juvenile justice
12	system; or
13	(5) A Conviction that is more than seven years old, the date of Conviction being the
14	date of sentencing.
15	Accordingly, the matters identified in this subsection (a) may not be considered in any manner
16	by the Housing Provider.
17	(b) The Housing Provider shall not require applicants for housing to disclose on any
18	housing application the fact or details of any Conviction History, any Unresolved Arrest, or any matter
19	identified in subsections (a)(1)-(5). Nor shall the Housing Provider inquire on any housing application
20	about the fact or details of any Conviction History, any Unresolved Arrest, or any matter identified in
21	subsections (a)(1)-(5).
22	(c) The Housing Provider shall not require applicants to disclose, and shall not inquire
23	into, Conviction History until the Housing Provider has first determined:
24	(1) that the applicant is legally eligible to rent the housing unit; and

(2) that the applicant is qualified to rent the housing unit under the Housing
Provider's criteria for assessing rental history and credit history; provided, however, that this
subsection (c)(2) shall apply only if the Housing Provider uses rental history and credit history
information in determining qualifications of applicants for housing; and provided further, that this
subsection (c)(2) shall not preclude a Housing Provider from obtaining a Background Check Report at
the same time as the Housing Provider obtains the rental history report and credit history report for an
applicant, so long as the Housing Provider reviews the Background Check Report only after
determining based on rental history and credit history that the applicant is qualified to rent the housing
unit.

(d) Prior to any Conviction History inquiry, the Housing Provider shall provide a copy of the notice described in Section 4907(b) to the applicant..

(e) Prior to obtaining a copy of a Background Check Report, the Housing Provider shall comply with all state and federal requirements including but not limited to those in the California Investigative Consumer Reporting Agencies Act (ICRAA), California Civil Code sections 1786 et seq., and the Federal Consumer Reporting Act (FCRA), 15 United States Code sections 1681 et seq., to provide notice to the applicant that such a report is being sought.

(f) In making a housing decision based on Conviction History, a Housing Provider shall conduct an individualized assessment, considering only Directly-Related Convictions, and the time that has elapsed since the Conviction or Unresolved Arrest. If a Housing Provider intends to base an Adverse Action on an item or items of Conviction History found in a Background Check Report or otherwise known by the Housing Provider, the Housing Provider shall notify the applicant in writing of the prospective Adverse Action, the items forming the basis for the prospective Adverse Action, and the time period for the applicant to submit further information to the Housing Provider, as provided in subsection (g).

1	(g) The applicant shall have 14 days from the Housing Provider's sending of the notice
2	described in subsection (f) to submit to the Housing Provider, orally or in writing, evidence of the
3	inaccuracy of the item or items of Conviction History and/or Evidence of Rehabilitation or Other
4	Mitigating Factors. If such information is submitted within that time period, the Housing Provider
5	shall delay any Adverse Action for a reasonable period after receipt of the information and during that
6	time shall reconsider the prospective Adverse Action in light of the information. If the Housing
7	Provider then takes a final Adverse Action against the applicant, the Housing Provider shall so advise
8	the Applicant in writing.
9	(h) It shall be unlawful for any Housing Provider to produce or disseminate any
10	advertisement that expresses, directly or indirectly, that any person with an arrest or conviction record
11	will not be considered for the rental or lease of real property or may not apply for the rental or lease of
12	real property, except as required by local, state, or federal law.
13	SEC. 4908. NOTICE AND POSTING REQUIREMENTS FOR HOUSING PROVIDERS.
14	(a) The Housing Provider shall state in all solicitations or advertisements for the rental or
15	lease of residential real property placed by the Housing Provider or on behalf of the Housing
16	Provider, that the Housing Provider will consider for tenancy qualified applicants with criminal
17	histories in a manner consistent with the requirements of this Article.
18	(b) The HRC shall, by the operative date of this Article, publish and make available to
19	Housing Providers, in English, Spanish, and Chinese, and all languages spoken by more than 5% of the
20	San Francisco population, a notice suitable for posting that informs applicants for the rental or lease of
21	residential real property of their rights under this Article. The HRC shall update this notice on
22	December 1 of any year in which there is a change in the languages spoken by more than 5% of the San
23	Francisco population.
24	(c) Housing Providers shall post the notice prominently on their website and at any location
25	under their control that is frequently visited by applicants or potential applicants for the rental or lease

1	of residential real property. At a minimum the notice described above shall contain the following
2	information:
3	(1) A description of those matters identified in Section 4907(a) that may not be
4	considered by the Housing Provider under any circumstances;
5	(2) A description of the restrictions and requirements that Section 4907 imposes on
6	Housing Providers when inquiring about Conviction History in connection with an application for the
7	rental or lease of residential real property;
8	(3) The definition of Evidence of Rehabilitation and Other Mitigating Circumstances
9	provided in Section 4903, and under what circumstances the applicant or potential applicant has a
0	right to provide such evidence; and
1	(4) The HRC telephone number and email address the applicant or potential
2	applicant may use to make a report if he or she believes the Housing Provider has violated any of the
3	provisions of Article 49.
4	SEC. 4909. EXERCISE OF RIGHTS PROTECTED; RETALIATION PROHIBITED.
5	(a) It shall be unlawful for an Employer, Housing Provider, or any other person to interfere
6	with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Article.
7	(b) It shall be unlawful for an Employer to refuse to hire an applicant, or to discharge.
8	threaten to discharge, demote, suspend, or otherwise take Adverse Action against an employee in
9	retaliation for exercising rights protected under this Article. Such rights include but are not limited to:
0	(1) the right to file a complaint or inform any person about any Employer's alleged
1	violation of this Article;
2	(2) the right to inform any person about an Employer's alleged violation of this
23	Article:
24	(3) the right to cooperate with the OLSE or other persons in the investigation or
25	prosecution of any alleged violation of this Article;

1	(4) the right to oppose any policy, practice, or act that is unlawful under this Article;
2	<u>or</u>
3	(5) the right to inform any person of his or her rights under this Article.
4	(c) It shall be unlawful for a Housing Provider to interrupt, terminate, or fail or refuse to
5	initiate or conduct a transaction involving the rental or lease of residential real property, including
6	falsely representing that a residential unit is not available for rental or lease, or otherwise take Adverse
7	Action against a person in retaliation for exercising rights protected under this Article. Such rights
8	include but are not limited to:
9	(1) the right to file a complaint or inform any person about any Housing Provider's
10	alleged violation of this Article;
11	(2) the right to inform any person about a Housing Provider's alleged violation of
12	this Article;
13	(3) the right to cooperate with the HRC or other persons in the investigation or
14	prosecution of any alleged violation of this Article;
15	(4) the right to oppose any policy, practice, or act that is unlawful under this Article;
16	<u>or</u>
17	(5) the right to inform any person of his or her rights under this Article.
18	(d) Protections of this Section 4909 shall apply to any person who mistakenly but in good
19	faith alleges violations of this Article.
20	(e) Taking Adverse Action against a person within 90 days of the exercise of one or more of
21	the rights described in this Section 4909 shall create a rebuttable presumption that such Adverse Action
22	was taken in retaliation for the exercise of those rights.
23	SEC. 4910. IMPLEMENTATION AND ENFORCEMENT OF EMPLOYMENT
24	PROVISIONS.
25	(a) Administrative Enforcement.

- (2) Where the OLSE determines that a violation has occurred, it may issue a determination and order any appropriate relief, provided, however, that for a first violation, or for any violation during the first twelve months following the operative date of this Article, the OLSE must issue warnings and notices to correct, and offer the Employer technical assistance on how to comply with the requirements of this Article. For a second violation, the OLSE may impose an administrative penalty of no more than \$50.00 that the Employer must pay to the City for each employee or applicant as to whom the violation occurred or continued. Thereafter, for subsequent violations, the penalty may increase to no more than \$100, payable to the City for each employee or applicant whose rights were, or continue to be, violated. Such funds shall be allocated to the OLSE and used to offset the costs of implementing and enforcing this Article.
- (3) If multiple employees or applicants are impacted by the same procedural violation at the same time (e.g., all applicants for a certain job opening are asked for their Conviction History on the initial application), the violation shall be treated as a single violation rather than multiple violations.
- (4) Where prompt compliance is not forthcoming, the OLSE may refer the action to the City Attorney to consider initiating a civil action pursuant to Subsection (b).

 set forth in this Article.

(5) An employee, applicant or other person may report to the OLSE any suspected violation
of this Article within 60 days of the date the suspected violation occurred. The OLSE shall encourage
reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by
applicable laws, the name and other identifying information of the employee, applicant or person
reporting the violation; provided, however, that with the authorization of such person, the OLSE may
disclose his or her name and identifying information as necessary to enforce this Article or for other
appropriate purposes.
(6) The Director of the OLSE shall establish rules governing the administrative process for
determining and appealing violations of this Article. The Rules shall include procedures for:
(A) <u>providing the Employer with notice that it may have violated this Article;</u>
(B) providing the Employer with a right to respond to the notice:

(D) providing the Employer with an opportunity to appeal the OLSE's determination to a hearing officer, who is appointed by the City Controller or his or her designee.

(C) providing the Employer with notice of the OLSE's determination of a violation:

(7) If there is no appeal of the OLSE's determination of a violation, that determination shall constitute a failure to exhaust administrative remedies, which shall serve as a complete defense to any petition or claim brought by the Employer against the City regarding the OLSE's determination of a violation.

(8) If there is an appeal of the OLSE's determination of a violation, the hearing before the hearing officer shall be conducted in a manner that satisfies the requirements of due process. In any such hearing, the OLSE's determination of a violation shall be considered prima facie evidence of a violation, and the Employer shall have the burden of proving, by a preponderance of the evidence, that the OLSE's determination of a violation is incorrect. The hearing officer's decision of the appeal shall constitute the City's final decision. The sole means of review of the City's final decision, rendered by the hearing officer, shall be by filing in the San Francisco Superior Court a petition for writ of mandate

- (b) Civil Enforcement. The City may bring a civil action in a court of competent jurisdiction against the Employer or other person violating this Article, and, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, but not limited to: reinstatement; back pay; the payment of benefits or pay unlawfully withheld; the payment of an additional sum as liquidated damages in the amount of \$50.00 to each employee, applicant or other person whose rights under this Article were violated for each day such violation continued or was permitted to continue; appropriate injunctive relief; and, further shall be awarded reasonable attorney's fees and costs.
- (c) Interest. In any administrative or civil action brought under this Article, the OLSE or court, as the case may be, shall award interest on all amounts due and unpaid at the rate of interest specified in subdivision (b) of Section 3289 of the California Civil Code.
- (d) <u>Remedies Cumulative. The remedies, penalties, and procedures provided under this</u>

 <u>Article are cumulative.</u>
- (e) <u>Limitation on Actions.</u> Civil Actions to enforce the employment provisions of this

 Article must be filed within one year after the date of the violation.

SEC. 4911. EMPLOYER RECORDS.

- (a) An Employer shall retain records of employment, application forms, and other pertinent data and records required under this Article, for a period of three years, and shall allow the OLSE access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this Article.
- (b) An Employer shall provide information to the OLSE, or the OLSE's designee, on an annual basis as may be required to verify the Employer's compliance with this Article.

1	(c) In no event shall the OLSE require an Employer to provide any information or
2	documents the disclosure of which would violate state or federal law.
3	(d) Where an Employer does not maintain or retain adequate records documenting
4	compliance with this Article or does not allow the OLSE reasonable access to such records, it shall be
5	presumed that the Employer did not comply with this Article, absent clear and convincing evidence
6	otherwise. The Office of Treasurer and Tax Collector shall have the authority to provide any and all
7	nonfinancial information to OLSE necessary to fulfill OLSE's responsibilities as the enforcing agency
8	under this Article. With regard to all such information provided by the Office of Treasurer and Tax
9	Collector, OLSE shall be subject to the confidentiality provisions of Subsection (a) of Section 6.22-1 of
10	the San Francisco Business and Tax Regulations Code.
11	(e) Pursuant to its rulemaking authority under this Article, the OLSE shall adopt rules that
12	establish procedures for Employers to maintain and retain accurate records and to provide annual
13	reporting of compliance to OLSE in a manner that does not require disclosure of any information that
14	would violate State or Federal privacy laws.
15	SEC. 4912. IMPLEMENTATION AND ENFORCEMENT OF HOUSING PROVISIONS.
16	(a) Administrative Enforcement.
17	(1) With regard to the housing provisions of this Article, the HRC is authorized to
18	take appropriate steps to enforce this Article and coordinate enforcement, including the investigation of
19	any possible violations of this Article.
20	(2) Where the Director of HRC determines that a violation has occurred, he or she
21	may issue a determination and order any appropriate relief, provided, however, that for a first
22	violation, or for any violation during the first twelve months following the operative date of this Article
23	the Director must issue warnings and notices to correct, and offer the Housing Provider technical
24	assistance on how to comply with the requirements of this Article. For a second violation, the Director

may impose an administrative penalty of no more than \$50.00 that the Housing Provider must pay for

each applicant as to whom the violation occurred or continued. Thereafter, for subsequent violations,
the penalty may increase to no more than \$100, payable to the City for each applicant whose rights
were, or continue to be, violated. Such funds shall be allocated to the HRC and used to offset the costs
of implementing and enforcing this Article.
(3) If multiple applicants are impacted by the same procedural violation at the same
time (e.g. all applicants for a certain housing unit are asked for their Conviction History on the initial
application), the violation shall be treated as a single violation rather than multiple violations.
(4) An applicant or other person may report to the HRC any suspected violation of
this Article within 60 days of the date the suspected violation occurred. The HRC shall encourage
reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by
applicable laws, the name and other identifying information of the employee, applicant or person
reporting the violation; provided, however, that with the authorization of such person, the HRC may
disclose his or her name and identifying information as necessary to enforce this Article or for other
appropriate purposes.
(5) The Director of the HRC shall establish rules governing the administrative
process for determining and appealing violations of this Article. The Rules shall include procedures
for:
(A) _providing the Housing Provider with notice that it may have violated this Article
(B) _providing the Housing Provider with a right to respond to the notice;
(C) providing the Housing Provider with notice of the Director's determination of a
violation;
(D) providing the Housing Provider with an opportunity to appeal the Director's
determination to the HRC.
(6) If there is no appeal of the Director's determination of a violation, that

determination shall constitute a failure to exhaust administrative remedies, which shall serve as a

1	complete defense to any petition or claim brought by the Housing Provider against the City regarding
2	the Director's determination of a violation.
3	(7) If there is an appeal of the Director's determination of a violation, the City
4	Controller or his or her designee shall appoint a person, other than a member of the Commission, to
5	serve as a hearing officer. The hearing before the hearing officer shall be conducted in a manner that
6	satisfies the requirements of due process. In any such hearing, the Director's determination of a
7	violation shall be considered prima facie evidence of a violation, and the Housing Provider shall have
8	the burden of proving, by a preponderance of the evidence, that the Director's determination of a
9	violation is incorrect.
0	(8) If the hearing officer finds that the Housing Provider has engaged in conduct in
1	violation of this Article, the hearing officer shall issue an order requiring the Housing Provider to
2	cease and desist from the practice and to offer the housing accommodation to the applicant or
3	applicants under the terms for which the unit was offered to the public. The Housing Provider shall not
4	be required to offer the housing accommodation if the unit has already been rented or leased to a
5	tenant, but the Housing Provider shall be required to offer a comparable unit, if available, to the
6	applicant or applicants.
7	(9) The decision of the hearing officer shall be final unless the Commission vacates
8	his or her decision on appeal.
9	(10) Either party may file an appeal of the hearing officer's decision with the
20	Commission. Such an appeal to the Commission from the determination of the hearing officer must be
21	made within 15 days of the mailing of the decision and findings of fact. The appeal shall be in writing
22	and must state the grounds for appellant's claim that there was either error or abuse of discretion on
23	the part of the hearing officer. Each appeal shall be accompanied by a \$15 filing fee; provided,
24	however, the fee shall be waived for an individual who files an affidavit under penalty of perjury stating
25	that he or she is an indigent person who does not have and cannot obtain the money to pay the filing fee

without using money needed for the necessities of life. The filing of an appeal will not stay the effect of the hearing officer's decision.

(11) Upon receipt of an appeal, the entire administrative record of the matter, including the appeal, shall be filed with the Commission.

(12) The Commission may in its discretion determine to hear an appeal. In deciding whether to hear an appeal, the Commission shall consider, among other things, fairness to the parties, hardship to either party and promotion of the policies and purposes of this Article. In determining whether to hear an appeal the Commission may also review material from the administrative record of the matter as it deems necessary. A vote of the majority of the Commission shall be required for an appeal to be heard.

(13) In those cases where the Commission is able to determine on the basis of the documents before it that the hearing officer has erred, the Commission may without determining whether to hear the appeal remand the case for further hearing in accordance with its instructions without conducting an appeal hearing. Both parties shall be notified as to the time of the re-hearing, which shall be conducted within 30 days of the remand by the Commission. In those cases where the Commission is able to determine on the basis of the documents before it that the hearing officer's findings contain numerical or clerical inaccuracies, or require clarification, the Commission may continue the hearing for purposes of referring the case back to said hearing officer in order to correct the findings.

(14) Appeals accepted by the Commission shall be heard within 45 days of the filing of an appeal. Within 30 days of the filing of an appeal, both parties shall be notified in writing as to whether the appeal has been accepted. If the appeal has been accepted, the notice shall state the time of the hearing and the nature of the hearing. Such notice must be mailed at least 10 days prior to the hearing.

(15) At the appeal hearing, the parties shall have an opportunity to present oral and
written argument in support of their positions. The Commission may in its discretion allow the parties
to present additional evidence that was not considered by the hearing officer. After such hearing and
after any further investigation which the Commission may deem necessary, the Commission may, upon
hearing the appeal, affirm, reverse or modify the hearing officer's decision or may remand the case for
further hearing in accordance with its findings. The Commission's decision must be rendered within 4.
days of the completion of the hearing and the parties must be notified of such decision.
(16) In accordance with the above subsection, the Commission shall give the parties
written notice of the decision. The notice shall state that the decision is final.
SEC. 4913. HOUSING PROVIDER RECORDS.
(a) A Housing Provider shall maintain and retain records of tenant application forms, and
other pertinent data and records required under this Article, for a period of three years, and shall
allow the HRC access to such records, with appropriate notice and at a mutually agreeable time, to
monitor compliance with the requirements of this Article.
(b) A Housing Provider shall provide information to the HRC, or the HRC's designee, on a
annual basis as may be required to verify the Housing Provider's compliance with this Article.
(c) In no event shall the HRC require a Housing Provider to provide any information or
documents the disclosure of which would violate state or federal law.
(d) Where a Housing Provider does not maintain or retain adequate records documenting
compliance with this Article or does not allow the HRC reasonable access to such records, it shall be
presumed that the Housing Provider did not comply with this Article, absent clear and convincing
evidence otherwise. The Office of Treasurer and Tax Collector shall have the authority to provide any
and all nonfinancial information to the HRC necessary to fulfill the HRC's responsibilities as the
enforcing agency under this Article. With regard to all such information provided by the Office of

1	Treasurer and Tax Collector, the HRC shall be subject to the confidentiality provisions of Subsection
2	(a) of Section 6.22-1 of the San Francisco Business and Tax Regulations Code.
3	(e) Pursuant to its rulemaking authority under this Article, the HRC shall adopt rules that
4	establish procedures for Housing Providers to maintain and retain accurate records and to provide
5	annual reporting of compliance to the HRC in a manner that does not require disclosure of any
6	information that would violate State or Federal privacy laws.
7	SEC. 4914. RULEMAKING.
8	(a) The Director of OLSE shall have authority to adopt regulations and guidelines that
9	implement the employment provisions of this Article or that relate to provisions of this Article of
0	general import or applicability; provided that the Director of OLSE may adopt regulations or
1	guidelines relating to provisions of general import or applicability only after consultation with the
2	Director of HRC.
3	(b) A designee of the Director of OLSE shall not have the authority under subsection (a) to
14	adopt regulations or guidelines. But, at the discretion of the Director of OLSE, a designee shall have
15	the authority to conduct hearings leading to the adoption of regulations or guidelines, and to consult
16	with the Director of HRC regarding regulations or guidelines relating to provisions of general import
17	or applicability.
18	(c) The HRC shall have authority to adopt regulations and guidelines that implement the
19	housing provisions of this Article. The HRC may delegate this function to the Director of HRC.
20	(d) A designee of the Director of HRC shall not have the authority under subsection (c) to
21	adopt regulations or guidelines. But, at the discretion of the Director of HRC, a designee shall have
22	the authority to conduct hearings leading to the adoption of regulations or guidelines, and to consult
23	with the Director of OLSE regarding regulations or guidelines relating to provisions of general impor-
24	or applicability.
25	SEC. 4915. OUTREACH.

(a) The OLSE shall establish a community-based outreach program to conduct education and outreach to employees, applicants, and potential applicants for employment regarding rights and procedures under this Article. The program may be targeted at workers or potential workers in industries or communities where, in the judgment of the OLSE, the need for education and outreach is greatest.

(b) The HRC shall establish a community-based outreach program to conduct education and outreach to applicants and potential applicants for housing regarding rights and procedures under this Article. The program may be targeted at individuals or communities where, in the judgment of the HRC, the need for education and outreach is greatest.

(c) In establishing outreach programs as required by subsections (a) and (b), the OLSE and the HRC may partner with each other and/or with community-based organizations. Nothing in this Section 4913 shall preclude the OLSE or the HRC, by contract or grant, and consistent with other provisions of City law, from engaging the services of such organizations in establishing such community-based outreach programs, participating in such programs, or developing materials for such programs. Nothing in this Section 4913 shall preclude the OLSE or the HRC from combining the outreach programs required by subsections (a) and (b) with other related community outreach programs.

SEC. 4916. OTHER LEGAL REOUIREMENTS.

This Article provides the minimum requirements pertaining to the protection of applicants for employment, potential applicants for employment, employees, and applicants and potential applicants for the rental and lease of residential real property, and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard, or, with regard to employment, any provision of a collective bargaining agreement that provides for greater or other rights of or protections for applicants, potential applicants, or employees. This provision shall apply both to laws, regulations, requirements, policies, standards, and collective

<u>bargaining</u> agreements in existence at the time the Article becomes operative, and to those that come into existence thereafter.

SEC. 4917. PREEMPTION.

1 2

The City recognizes that in some circumstances state or federal law governs some of the matters addressed in this Article. Nothing in this Article shall be interpreted or applied by a court or an agency of City government so as to create any requirement, power, or duty in conflict with federal or state law or with a requirement of any government agency, including any agency of City government, implementing federal or state law. Consistent with the foregoing principle, for example, the OLSE and the HRC are authorized to not enforce any provision of this Article upon determining that its application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

SEC. 4918. CITY UNDERTAKING LIMITED TO PROMOTION OF GENERAL WELFARE.

In enacting and implementing this Article, the City is assuming an undertaking only to promote the general welfare. The City is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. This Article does not create a legally enforceable right against the City.

SEC. 4919. SEVERABILITY.

If any part or provision of this Article including but not limited to a section, subsection,

paragraph, sentence, phrase, or word, or the application thereof to any person or circumstance, is held invalid, the remainder of the Article, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Article are severable.

SEC. 4920. OPERATIVE DATE.

This Article shall become operative on 180 days after enactment and shall have prospective
effect only, measured from the operative date forward. Enactment occurs when the Mayor signs the
ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of
receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.
Section 2. The San Francisco Administrative Code is hereby amended by adding
Chapter 12T, Sections 12T.1-12T.11 to read as follows:
CHAPTER 12T: CITY CONTRACTOR/SUBCONTRACTOR CONSIDERATION OF
CRIMINAL HISTORY IN HIRING AND EMPLOYMENT DECISIONS
SEC. 12T.1. DEFINITIONS
For the purposes of this Chapter, the following words and phrases shall mean and include:
"Adverse Action" shall have the same meaning as in Police Code Section 4903.
"Arrest" shall have the same meaning as in Police Code Section 4903.
"Background Check Report" shall have the same meaning as in Police Code Section 4903.
"City" shall mean the City and County of San Francisco.
"Contract" shall mean an agreement for public works or improvements to be performed, or for
goods or services to be purchased or grants to be provided, at the expense of the City or to be paid out
of moneys deposited in the treasury or out of trust moneys under the control or collected by the City,
and does not include Property contracts, agreements entered into after June 1, 1997 pursuant to
$\underline{settlement\ of\ legal\ proceedings,\ contracts\ for\ urgent\ litigation\ expenses,\ or\ contracts\ for\ a\ cumulative}$
amount of \$5,000 or less per vendor in each fiscal year.
"Contractor" means any person or persons, firm, partnership, corporation, or combination
thereof, who enters into a Contract or Property Contract with a department head or officer empowered
by law to enter into Contracts or Property Contracts on the part of the City.
"Conviction" shall have the same meaning as in Police Code Section 4903.

1	"Conviction History" shall have the same meaning as in Police Code Section 4903.
2	"Directly-Related Conviction" shall have the same meaning as in Police Code Section 4903.
3	"Employment" shall have the same meaning as in Police Code Section 4903.
4	"Evidence Of Rehabilitation Or Other Mitigating Factors" shall have the same meaning as in
5	Police Code Section 4903.
6	"HRC" and "Director of HRC" shall have the same meaning as in Police Code Section 4903
7	"Inquire" shall have the same meaning as in Police Code Section 4903.
8	"OLSE" and "Director of OLSE" shall have the same meaning as in Police Code Section 4903.
9	"Person" shall have the same meaning as in Police Code Section 4903.
10	"Property Contract" shall mean a written agreement for the exclusive use or occupancy of real
11	property for a term exceeding 29 days in any calendar year, whether by singular or cumulative
12	instrument (i) for the operation or use by others of real property owned or controlled by the City for the
13	operation of a business, social, or other establishment or organization, including leases, concessions,
14	franchises and easements, or (ii) for the City's use or occupancy of real property owned by others,
15	including leases, concessions, franchises and easements. For the purposes of this Chapter, "exclusive
16	use" means the right to use or occupy real property to the exclusion of others, other than the rights
17	reserved by the fee owner. "Property Contract" shall not include a revocable at-will use or
18	encroachment permit for the use of or encroachment on City property regardless of the ultimate
19	duration of such permit, except that " Property Contract" shall include such permits granted to a
20	private entity for the use of City property for the purpose of a for-profit activity. "Property contract"
21	shall also not include street excavation, street construction or street use permits, agreements for the use
22	of City right-of-way where a contracting utility has the power of eminent domain, or agreements
23	governing the use of City property which constitutes a public forum for activities that are primarily for
24	the purpose of espousing or advocating causes or ideas and that are generally recognized as protected
25	by the First Amendment to the U.S. Constitution, or which are primarily recreational in nature.

"Subcontract" shall mean an agreement to (i) provide goods and/or services, including
construction labor, materials or equipment, to a Contractor, if such goods or services are procured or
used in the fulfillment of the Contractor's obligations arising from a Contract with the City, or (ii) to
transfer the right to occupy or use all or a portion of a real property interest subject to a Property
Contract to a Subcontractor and pursuant to which the Contractor remains obligated under the
Property Contract.
"Subcontractor" means any person or persons, firm, partnership, corporation or any
combination thereof, who enters into a Subcontract with a Contractor. Such term shall include any
person or entity who enters into an agreement with any Subcontractor for the performance of 10
percent or more of any subcontract.
"Unresolved Arrest" shall have the same meaning as in Police Code Section 4903.
SEC, 12T.2 APPLICABILITY OF CHAPTER TO CONTRACTORS AND
SUBCONTRACTORS
The requirements of this Chapter shall only apply to a Contractor's operations within San
Francisco, and only to the extent those operations are in furtherance of performing a Contract with the
<u>City.</u>
SEC. 12T.3 ALL CONTRACTS AND PROPERTY CONTRACTS TO INCLUDE
PROVISION REQUIRING COMPLIANCE WITH THIS CHAPTER
All contracting agencies of the City, or any department thereof, acting for or on behalf of the
City, shall include in all Contracts and Property Contracts hereinafter executed or amended in any
manner or as to any portion thereof, a provision requiring Contractor compliance with this Chapter
and shall require such Contractor to include a similar provision in all Subcontracts executed and
amended thereunder, and failure to do so shall constitute a material breach of contract.
SEC. 12T.4 PROCEDURES FOR CONTRACTOR USE OF CRIMINAL HISTORY
INFORMATION IN EMPLOYMENT DECISIONS

(a) In making employment decisions, a Contractor or Subcontractor shall not require
applicants for employment or its employees to disclose, orally or in writing, the fact or details of any
prior Conviction History, including any inquiry about conviction history on any employment
application, and shall not inquire into any prior Conviction History, until after the first live interview
(via telephone, video conference or in person) or after a conditional offer of employment.
(b) After the first interview or a conditional offer of employment, a Contractor or
Subcontractor may inquire about felony and misdemeanor convictions occurring within the previous
seven years. The Contractor or Subcontractor shall not inquire about, and in the event that such
information is received, shall not base an Adverse Action upon:
(1) An arrest not leading to a conviction unless required by state or federal law;
(2) Participation in or completion of a diversion or a deferral of judgment program;
<u>or</u>
(3) A conviction that has been judicially dismissed, for example, pursuant to
California Penal Code §§ 1203.4, 1203.4 or 1203.41.
(c) Notwithstanding the requirements of this section, if at any time an applicant or employee
spontaneously volunteers information about his or her Conviction History without prompting by the
Employer, the Employer may ask follow up questions and make further inquiries about the applicant or
employee's Conviction History.
(d) Prior to any Conviction History inquiry, the Employer shall provide a copy of the notice
described in Section 4905(b) to the applicant or employee.
(e) Prior to obtaining a copy of a Background Check Report, the Employer shall comply
with all state and federal requirements including California Investigative Consumer Reporting
Agencies Act (ICRAA) and/or the Federal Consumer Reporting Act (FCRA) to provide notice to the
applicant or employee that such a report is being sought. For applicants or employees who elect to
receive a copy of the report, the Employer must also notify them of their right pursuant to this section

1	to provide the Employer with evidence of inaccuracy or Evidence of Rehabilitation or Other Mitigating
2	Circumstances regarding any items of Conviction History found in the report, and that such
3	information must be received within 5 days of the date that the report is sent to the applicant or
4	employee in order to receive Employer consideration.
5	(e) In making an employment decision based on an applicant's or employee's Conviction
6	History, a Contractor or Subcontractor shall conduct an individualized assessment, considering only
7	Directly-Related Convictions, the time that has elapsed since the conviction, and any evidence of
8	inaccuracy or Evidence of Rehabilitation or Other Mitigating Circumstances.
9	(f) If a Contractor or Subcontractor intends to base an Adverse Action on an item or items
10	of Conviction History found in the applicant or employee Background Check Report, and the applican
11	or employee submits evidence of the items' inaccuracy or Evidence of Rehabilitation or Other
12	Mitigating Circumstances within the required time period, the Employer shall delay any Adverse
13	Action for a reasonable time after receipt of this evidence and during that time shall reconsider the
14	proposed Adverse Action in light of this evidence.
15	(g) Upon taking any final Adverse Action based on the Conviction History of an applicant
16	or employee, a Contractor or Subcontractor shall give the applicant or employee written notice of the
17	final Adverse Action in a document that conforms to the requirements of Police Code Section 4905(d).
18	(h) A Contractor or Subcontractor shall not produce or disseminate any advertisement that
19	expresses, directly or indirectly, that any person with an arrest or conviction will not be considered for
20	employment or may not apply for employment, except as required by local, state, or federal law.
21	(i) Nothing in this Section shall be construed to prohibit a Contractor or Subcontractor
22	from observing the conditions of a seniority system or an employee benefit system, provided such
23	systems or plans are not a subterfuge to evade the purposes or requirements of this Chapter.
24	SEC. 12T.5. NOTICE AND POSTING REQUIREMENTS FOR CONTRACTORS AND
25	<u>SUBCONTRACTORS</u>

(a) The Contractor or Subcontractor with state in all solicitations or devertisements for
employees placed by or on his or her behalf, that the Contractor or Subcontractor will consider for
employment qualified applicants with Conviction Histories in a manner consistent with the
requirements of this Chapter.
(b) Notice of Rights under this Chapter. The OLSE shall, by the operative date of this
Chapter, publish and make available to Contractors and Subcontractors, in all languages spoken by
more than 5% of the San Francisco workforce, a notice substantially similar in form and content to the
notice described in Police Code Section 4905(b). However, the notice shall cite this Chapter rather
than Police Code Article 49 as the applicable legal authority for the rights and obligations described
therein. Contractors and Subcontractors shall be subject to the same distribution and posting
requirements for this notice as described in Police Code Section 4905(c).
(c) Final Adverse Action. The OLSE shall, by the operative date of this Article, publish
and make available to Contractors and Subcontractors, a questionnaire to be completed by the
Employer prior to taking any final Adverse Action against an applicant or employee on the basis of his
or her Conviction History. The notice shall be substantially similar in form and content to the notice
described in Police Code Section 4905(d). However, the notice shall cite this Chapter rather than
Police Code Article 49 as the applicable legal authority for the rights and obligations described
therein.
(d) Upon taking any final Adverse Action against an applicant or employee on the basis of
his or her Conviction History, a Contractor or Subcontractor shall deliver to the applicant or
employee a copy of the completed questionnaire described above.
SEC 12T.6 IMPLEMENTATION AND ENFORCEMENT
(a) The OLSE is authorized to take appropriate steps to enforce and coordinate enforcement

of this Chapter, including the investigation of possible violations of this Chapter. The OLSE's finding of a violation may not be based on the validity of the Contractor's or Subcontractor's bona fide

business reason for taking an Adverse Action against an applicant or employee based on his or her
Conviction History. Instead, the Agency's review shall be limited to a Contractor's or Subcontractor's
adherence to procedural, posting and documentation requirements set forth in this Chapter. If multiple
employees or applicants are impacted by the same procedural violation at the same time (e.g., all
applicants for a certain job opening are asked for their conviction history on the initial application).
the violation shall be treated as a single violation rather than multiple violations.

- (b) An employee, applicant or other person may report to the OLSE any suspected violation of this Chapter. The OLSE shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the employee or person reporting the violation; provided, however, that with the authorization of such person, the OLSE may disclose his or her name and identifying information as necessary to enforce this Chapter or for other appropriate purposes.
- (c) A Contractor or Subcontractor shall be deemed to have breached the provisions

 regarding the procedures for use of Conviction History in employment upon a finding by the OLSE that
 the Contractor or Subcontractor has willfully violated these provisions, provided, however, that for a
 first violation, or for any violation during the first twelve months following the operative date of this

 Chapter, the OLSE must issue warnings and notices to correct, and offer the Contractor or
 Subcontractor technical assistance on how to comply with the requirements of this Chapter.
- (d) Upon a subsequent finding of a violation of this Chapter, the awarding authority shall notify the Contractor or Subcontractor that unless the Contractor or Subcontractor demonstrates to the satisfaction of the OLSE within such reasonable period as the OLSE shall determine, that the violation has been corrected, action will be taken as set forth in subparagraphs (g) through (j) hereof.
- (e) The Director of the OLSE shall establish rules governing the administrative process for determining and appealing violations of this Chapter. The Rules shall include procedures for:

1	(1) providing the Contractor or Subcontractor with notice that it may have violated
2	this Chapter:
3	(2) providing the Contractor or Subcontractor with a right to respond to the notice;
4	(3) providing the Contractor or Subcontractor with notice of the OLSE's
5	determination of a violation;
6	(4) providing the Contractor with an opportunity to appeal the OLSE's
7	determination to a hearing officer, who is appointed by the City Controller or his or her designee.
8	(f) If there is an appeal of the OLSE's determination of a violation, the hearing before the
9	hearing officer shall be conducted in a manner that satisfies the requirements of due process. In any
10	such hearing, the OLSE's determination of a violation shall be considered prima facie evidence of a
11	violation, and the Contractor or Subcontractor shall have the burden of proving, by a preponderance of
12	the evidence, that the OLSE's determination of a violation is incorrect. The hearing officer's decision
13	of the appeal shall constitute the City's final decision.
14	(g) For a second violation, the awarding authority may deduct from the amount payable to
15	the Contractor or Subcontractor by the City under any Contract subject to this Chapter, or the OLSE
16	may impose upon the Contractor or Subcontractor, a penalty of \$50 for each day or portion thereof
17	and for each employee, applicant or other person as to whom the violation occurred or continued.
18	Thereafter, for subsequent violations, the penalty may increase to no more than \$100, payable to the
19	City for each day or portion thereof, and for each employee or applicant whose rights were, or
20	continue to be, violated. Such funds shall be allocated to the OLSE and used to offset the costs of
21	implementing and enforcing this Chapter.
22	(h) In addition to any other penalties provided for the violation of this Chapter, the Contract

or Subcontract may be terminated or suspended, in whole or in part, by the awarding authority upon

the basis of a finding as set forth in subsection (f) that the Contractor or Subcontractor has violated the

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1	provisions of this Chapter, and all moneys due or to become due hereunder may be forfeited to, and
2	retained by, the City.
3	(i) A violation of the provisions of this Chapter during the performance of a Contract, or
4	Subcontract shall be deemed by the City to be a material breach of Contract and the basis for
5	determination by the awarding authority that the Contractor or Subcontractor is an irresponsible
6	bidder as to all future contracts for which such Contractor or Subcontractor may submit bids. Such
7	Contractor or Subcontractor shall not for a period of up to two years thereafter, be allowed to act as a
8	Contractor or Subcontractor under any Contract or Property Contract.
9	(j) Nothing contained in this Chapter shall be construed in any manner so as to prevent the
0	City from pursuing any other remedies that may be available at law, equity or under any Contract or
11	Property Contract.
12	(k) Rulemaking Authority. The Director of OLSE shall have authority to issue regulations
13	or develop guidelines that implement the provisions of this Chapter. A designee of the Director shall
14	not have the authority under the foregoing sentence of this Section; but a designee of the Director shall
15	have the authority to conduct hearings leading to the adoption of regulations or guidelines.
16	SEC. 12T.7 CONTRACTOR RECORDS
17	(a) All Contractors and Subcontractors shall be subject to the same requirements for access
18	to and maintenance of employment records as described in Police Code Section 4910. In no event sha
19	OLSE require a Contractor or Subcontractor to provide any information or documents the disclosure
20	of which would violate state or federal law.
21	(b) A Contractor or Subcontractor shall provide information to the OLSE, or the OLSE's
22	designee, such information on an annual basis as may be required to verify the Contractor or
23	Subcontractor's compliance with this Article.
24	(c) Where a Contractor or Subcontractor does not maintain or retain adequate records
25	documenting compliance with this Chapter and does not allow OLSE reasonable access to such

1	records, it shall be presumed that the Contractor or Subcontractor did not comply with this Article,
2	absent clear and convincing evidence otherwise. The Office of Treasurer and Tax Collector shall have
3	the authority to provide any and all nonfinancial information to OLSE necessary to fulfill OLSE's
1	responsibilities as the enforcing agency under this Chapter. With regard to all such information
5	provided by the Office of Treasurer and Tax Collector, OLSE shall be subject to the confidentiality
3	provisions of Subsection (a) of Section 6.22-1 of the San Francisco Business and Tax Regulations
7	<u>Code.</u>
3	(d) The OLSE shall promulgate rules and regulations for the implementation of this
9	Chapter.
0	SEC. 12T.8. CHAPTER APPLIES ONLY TO EMPLOYMENT PRACTICES OF
1	CONTRACTORS AND SUBCONTRACTORS.
2	This Chapter shall not confer upon the City and County of San Francisco or any agency, board
3	or commission thereof any power not otherwise provided by law to determine the legality of any
4	existing collective bargaining agreement and shall have application only to employment practices by
5	contractors or subcontractors engaged in the performance of City and County contracts or property
6	contracts.
7	SEC. 12T,9 NONAPPLICABILITY, EXCEPTIONS AND WAIVERS.
8	(a) The OLSE shall waive the requirements of this Chapter under the following
9	circumstances:
0	(1) Whenever the OLSE finds, upon the advice of the awarding authority, that there
1	is only one prospective contractor willing to enter into a property contract with the City for use of City
2	property on the terms and conditions established by the City, or that the needed goods, services.

construction services for a public work or improvement, or interest in or right to use real property are available only from a sole source and the prospective contractor is not currently disqualified from

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doing business with the City, or from doing business with any governmental agency based on any
contract compliance requirements;
(2) If the contracting department, board or commission certifies in writing to the
OLSE that pursuant to Administrative Code Sections 6.30 or 21.25 the contract or property contract is
necessary to respond to an emergency which endangers the public health or safety and no entity which
complies with the requirements of this Chapter capable of responding to the emergency is immediately
available; provided that such certification must be made prior to the Controller's contract certification,
(3) Where the City Attorney certifies in writing to the OLSE that the contract
involves specialized litigation requirements such that it would be in the best interests of the City to
waive the requirements of this Chapter.
(b) This Chapter shall not apply where the prospective contractor is a public entity and the
OLSE finds that goods, services, construction services for a public work or improvement or interest in
or right to use real property of comparable quality or accessibility as are available under the proposed
contract or property contract are not available from another source, or that the proposed contract or
property contract is necessary to serve a substantial public interest.
(c) This Chapter shall not apply where the contracting officer finds that the requirements of
this Chapter will violate or are inconsistent with the terms or conditions of a grant, subvention or
agreement with a public agency or the instructions of an authorized representative of any such agency
with respect to any such grant, subvention or agreement, provided that the contracting officer has made
a good faith attempt to change the terms or conditions of any such grant, subvention or agreement to
authorize application of this Chapter.
(d) Upon the request of a potential contractor or upon the contracting officer's own
initiative, after taking all reasonable measures to find an entity that complies with the law, the
contracting officer may waive any or all of the requirements of this Chapter for any contract, property
contract or bid package advertised and made available to the public, or any competitive or sealed bids

1	received by the City as of the date of the enactment of this ordinance under the following
2	circumstances:
3	(1) Where the contracting officer determines that there are no qualified responsive
4	bidders or prospective contractors who could be certified by the OLSE as being in compliance with the
5	requirements of this Chapter and that the contract or property contract is for goods, a service or a
6	project that is essential to the City or City residents; or
7	(2) Where the contracting officer determines that transactions entered into pursuant
8	to bulk purchasing arrangements through federal. State or regional entities which actually reduce the
9	City's purchasing costs would be in the best interests of the City; or
10	(3) Where the contracting officer determines that the requirements of this Chapter
11	would result in the City's entering into a contract with an entity that was set up, or is being used, for the
12	purpose of evading the intent of this Chapter, which is to prohibit the City from entering into contracts
13	with entities that discriminate based on the criteria set forth in this Chapter;
14	(4) The waiver authority granted to contracting officers in this Section shall be
15	subject to the requirements that:
16	(i) All proposed waivers must be submitted to the OLSE and the Clerk of the
17	Board of Supervisors. All proposed waivers must set forth the reasons the contracting officer is
18	requesting the waiver, what steps were taken to find an entity that complies with this Chapter and why
19	the waiver does not defeat the intent of this Chapter, which is to prohibit the City from entering into
20	contracts with entities that do not comply with the requirements of this Chapter to follow certain
21	procedures when inquiring about and using criminal history information in employment and hiring
22	decisions. Such waivers shall be subject to the prior approval of the OLSE, who shall take action
23	approving or denying a proposed waiver within 30 days of receiving a notification of a proposed
24	waiver from a contracting officer. If after 30 days the OLSE has taken no action on the proposed

1	waiver, the waiver shall be deemed approved. The Clerk of the Board of Supervisors shall list the
2	notice of the proposed waiver at the rear of the next available Board agenda, and
3	(ii) Contracting officers report to the OLSE whenever such a waiver is
4	granted within five days of granting the waiver, and
5	(iii) For any contract subject to approval by the Board, the contracting office
6	shall state in the approving resolution whether any waiver under this section has been or is proposed to
7	be granted for that contract, and
8	(iv) The OLSE shall conduct quarterly comprehensive reviews of the use of
9	the waiver authority by departments and shall make a report to the Board of Supervisors. Contracting
0	officers who have exercised waiver authority under this Section in the previous quarter must appear
1	before a Board of Supervisors committee and report on their use of such waiver authority. If the Board
2	finds abuse of waiver authority by a department under this Section, either as a result of a report of the
3	OLSE or upon its own initiative, the Board may by resolution transfer that waiver authority for that
4	department to the OLSE, to be exercised by the OLSE upon recommendation of the contracting officer
5	under any or all of the circumstances enumerated in this Section;
16	(5) Nothing in this section shall limit the right of the Board of Supervisors to waive
17	the provisions of this Chapter.
18	(e) This Chapter shall not apply to (i) the investment of trust moneys or agreements relating
19	to the management of trust assets, (ii) City moneys invested in U.S. government securities or under pre
20	existing investment agreements, or (iii) the investment of City moneys where the Treasurer finds that:
21	(1) No person, entity or financial institution doing business in the City and County
22	which is in compliance with this Chapter is capable of performing the desired transactions(s); or
23	(2) The City will incur a financial loss which in the opinion of the Treasurer would
2/	violate his or her fiduciary duties

1 This subparagraph (e) shall be subject to the requirement that City moneys shall be withdrawn 2 or divested at the earliest possible maturity date if deposited or invested with a person, entity or 3 financial institution other than the U.S. government which does not comply with this Chapter.

(f) The General Manager of the Public Utilities Commission may waive the requirements of this Chapter where the contractor is providing wholesale or bulk water, power or natural gas, the conveyance or transmission of same, or ancillary services such as spinning reserve, voltage control, or loading scheduling, as required for assuring reliable services in accordance with good utility practice, to or on behalf of the San Francisco Public Utilities Commission; provided that the purchase of same may not practically be accomplished through the City's standard competitive bidding procedures: and further provided that this exemption shall not apply to contractors or franchisees providing direct, retail services to end users within the City and County of San Francisco.

SEC. 12T.11 SEVERABILITY

If any part or provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable.

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Section 3. Effective Date and Operative Date.

- 20 occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or 21 does not sign the ordinance within ten days of receiving it, or the Board of Supervisors 22 overrides the Mayor's veto of the ordinance.

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This ordinance shall become operative 180 days after enactment and shall have prospective effect only, measured from the operative date forward.

This ordinance shall become effective 30 days after enactment. Enactment

1	APPROVED AS TO FORM: DENNIS J. HERRERA, City Attorney	
2	•	
3	By: PAUL ZAREFSKY	
4	Deputy City Attorney	
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Legislation for Commission Review

BOS File No: 131062

Title: Police Code - Reporting Information About Employees of Private Parking Garages and Parking Lots

Legislation Overview:

Ordinance amending the Police Code to require applicants for commercial parking permits to provide the residential zip code, gender, and duration of employment for employees and other individuals working in parking lots or parking granges.

Sponsor(s): Scott Wiener; Malia Cohen

Date Introduced: 10/29/2013

Date Referred: N/A

Description:

This legislation would amend the list of information required to be provided on applications by new and renewing commercial parking operators. Commercial parking permits are reviewed and approved by the Chief of Police. A commercial parking permit applicant already must provide a variety of information about its owner(s), facility layout and operating characteristics, and insurance coverage, among other items. Additionally, an applicant must submit a list of all employees or other individuals working or proposed to work at a parking facility, along with their hours and duties of employment, and an owner declaration of whether those employees or individuals have been convicted, pled guilty, or pled no contest to a covered crime within the preceding 10 years. Covered crimes are defined, below.

To the list of information required to be provided regarding employees or individuals working at a commercial parking facility, this legislation proposes to add the following:

- 1) How long the individual has been employed by the applicant;
- 2) A list of the residential ZIP codes of the individuals, along with number of individuals residing within each ZIP code, without identifying by-name an individual's ZIP code;
- 3) The total number of males and total number of females working or proposed to work at the parking facility.

Covered crimes: As defined in Police Code Section 1215(a), covered crimes include "The crimes of assault, battery, burglary, robbery, theft including identity theft, receipt of stolen property, breaking or removing parts from a vehicle, malicious mischief to a vehicle, unlawful use or tampering by bailee of a vehicle, aftering a vehicle identification, tax fraud or evasion, and any offense related to the use of alcohol, narcotics or controlled substances while operating or in connection with a vehicle, committed anywhere in the United States of America."

Key Ouestions:

- 1) What is the underlying purpose of this legislation?
 - a. If the intent is to target a subset of parking operators believed to be in violation of labor laws, what is preventing a more direct investigation and appropriate action, as warranted?
- 2) What is the purpose and need to identify individuals by ZIP code?
- 3) What is the purpose and need to identify individuals by gender?
- 4) Has this legislation has been vetted by Local 665 to determine whether it will cause conflicts with its collective bargaining agreement (CBA)?

Legislation for Commission Review

BOS File No: 131062

Title: Police Code - Reporting Information About Employees of Private Parking Garages and Parking Lots

5) In light of the introduction of BOS File No. 131192 [Police, Administrative Codes - Considering Criminal History in Employment and Housing Decisions], has the legislative sponsor considered the appropriateness of also amending Police Code Section 1215.1's use of criminal conviction history? This is but one example of a Police Code requirement related to conviction history, but it is the only one running concurrently with File No. 131192.

Staff Assessment:

Commercial parking operators will incur an additional recordkeeping and reporting burden as a result of this legislation. However, the burden is expected to be minimal, and additional costs to commercial parking operators should be negligible. The employee data requested should already be on-file with each operator, and the reporting burden will be limited to consolidating and summarizing it in the City's requested format. Preparation of the requested data should occur no more frequently than once per year, as the Police Department issues commercial parking permits with annual renewal requirements.

The reporting requirements proposed by this legislation are part of a broader effort to gather data for analysis of commercial parking operations. The City is seeking a better understanding of the labor practices of commercial parking operators, including the extent of their compliance with employer mandates and labor standards. This legislation was developed in conjunction with ongoing research being conducted by the Board of Supervisors' Budget and Legislative Analyst.

Departments/Organizations to Consult:

Office of Labor Standards and Enforcement

Legislation and Policy Committee Review:

The Committee heard this item on 1/13/2014, receiving a staff presentation from Andres Power, legislative aide to Supervisor Scott Wiener. Mr. Power indicated the measure was developed in coordination with the Teamsters union in an attempt to address allegations that some operators suppress wages by failing to comply with employer regulations, and by ensuring high employee turnover. He described the measure as a first step towards better understanding how parking operators manage their businesses, and that it would be combined with other efforts to combat unscrupulous operators.

The Committee members were highly skeptical of this item and did not appear convinced of its purported efficacy to address wage or tax evasion problems. The reporting burden was not a significant issue, but handling and use of the data were key Committee concerns. The legislation does not specify who will use the data and how it will be used. Committee members also questioned how employee gender and residence ZIP codes would help with enforcement. The Committee also objected to Mr. Power's assertion that the data collection and reporting requirements would only apply to private lot operators, not those managing public lots, due to SFMTA contractual concerns.

Mr. Power countered that the data were already being collected and provided to the City, just not in an aggregated format. He believed Sup. Wiener would be open to including some specificity in the ordinance regarding agencies that will use the data and how they will use it.

LEGISLATIVE DIGEST

[Police Code - Reporting Information About Employees of Private Parking Garages and Parking Lots]

Ordinance amending the Police Code to require applicants for commercial parking permits to provide the residential zip code, gender, and duration of employment for employees and other individuals working in parking lots and parking garages.

Existing Law

Existing law requires entities or individuals wishing to operate a commercial parking garage or commercial parking lot to apply annually to the Chief of Police. The application must include certain information such as a list of all people working at the parking garage or parking lot or whom the applicant proposes for employment or work at the parking garage or parking lot.

Amendments to Current Law

This Ordinance would require applicants for commercial parking garages and commercial parking lots to supply, as part of their annual application, the following additional information: (1) how long each employee has been employed by the applicant; (2) a list of the residential zip codes of all people working at the parking garage or parking lot, or whom the applicant proposes for employment at the parking garage or parking lot, along with the number of individuals that live in each zip code; and (3) the total number of males and the total number of females working at the parking garage or parking lot, or whom the applicant proposes for employment at the parking garage or parking lot.



1	[Police Code - Reporting Information About Employees of Private Parking Garages and Parking Lots]
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Ordinance amending the Police Code to require applicants for commercial parking

Ordinance amending the Police Code to require applicants for commercial parking permits to provide the residential zip code, gender, and duration of employment for employees and other individuals working in parking lots or parking garages.

NOTE: Unchanged Code text and uncodified text are in plain Arial font.
Additions to Codes are in single-underline italics Times New Roman font.
Deletions to Codes are in siriledhrough italics Times New Roman font.
Board amendment additions are in gouble-underlined Arial font.
Board amendment deletions are in etrikethrough Arial fent.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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Be it ordained by the People of the City and County of San Francisco:

Section 1. The Police Code is hereby amended by revising Section 1215.1, to read as follows:

SEC. 1215.1. APPLICATION FOR PERMIT.

- (a) Application Requirements. An applicant for a commercial parking permit shall use the application form the Chief of Police provides, and shall supply the following information:
- (1) The applicant's business name and address, and the address of the parking garage or parking lot for which the applicant seeks a commercial parking permit;
- (2) The name, residence address, and business contact information of an individual the applicant has authorized to serve as the point of contact for the application and any commercial parking permit the Chief of Police issues;
- (3) The names and residence addresses of every officer and partner of the applicant and every person with 10 percent or larger ownership interest in the applicant;

- (4) The name and residence address of the individual whom the applicant has authorized to manage, direct, or control the operations of the parking garage or parking lot for which the applicant seeks a commercial parking permit;
- (5) For all individuals listed in subsections (2) through (4), a list of each conviction of or plea of guilty or no contest to a covered crime in the ten years preceding the application, including the nature of the offense and the place and date of the conviction or plea;
- (6) If the applicant does not own the building, structure or space where the parking garage or parking lot for which the applicant seeks a commercial parking permit operates or will operate, the name, business address and contact information of the owner, and documentation demonstrating the nature of the applicant's interest in the building, structure or space;
- (7) A copy of a current and valid business registration certificate that the Office of the Treasurer and Tax Collector has issued to the applicant under Business and Tax Regulations Code Section 853. The name on the business registration certificate must match the name of the applicant on the application for the commercial parking permit;
- (8) A copy of a current and valid certificate of authority for the parking garage or parking lot for which the applicant seeks a commercial parking permit that the Office of the Treasurer and Tax Collector has issued to the applicant under Business and Tax Regulations Code Section 6.6-1, or documentation demonstrating that the applicant has applied to the Office of the Treasurer and Tax Collector for a certificate of authority for the parking garage or parking lot for which the applicant seeks a commercial parking permit and has obtained the bond required for that certificate. The name on the certificate of authority or on the application for a certificate of authority and bond must match the name of the applicant on the application for the commercial parking permit;

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- (9) A copy of plans for the parking garage or parking lot for which the applicant seeks a commercial parking permit. The plans must include the name and business address of the applicant; the address of the parking garage or parking lot; the name and business address of the owner of the building, structure or space where the garage or lot is located, if the applicant is not the owner; all pedestrian and vehicular entrances and exits to the garage or lot; the dimensions and types of construction of all structures, fences or other improvements; and any features that may affect street traffic;
- (10) The total motor vehicle capacity of the parking garage or parking lot for which the applicant seeks a permit, including the number of designed spaces and the motor vehicle capacity of all undesignated areas the applicant could use for overflow parking;
- (11) Certificates of insurance and endorsements evidencing insurance in the amounts and coverages the Chief of Police sets under Section 1215.4(b);
- (12) A list of all employees or other individuals working at the parking garage or parking lot, or whom the applicant proposes for employment or work at the parking garage or parking lot including <u>for each individual the</u> hours and duties of employment <u>and the how long the individual has been employed by the applicant;</u>
- (14) A list of the residential zip codes of all employees or other individuals working at the parking garage or parking lot, or whom the applicant proposes for employment or work at the parking

2	not identify which individuals reside in which zip codes. For purposes of this subsection, the term
3	"residential zip code" shall mean the zip code where the individual primarily resides;
4	(15) The total number of males and the total number of females working at the parking
5	garage or parking lot, or whom the applicant proposes for employment or work at the parking garage
6	or parking lot;
7	(<u>+3-16</u>) The proposed design of the identification badge for employees or other
8	individuals working at the parking garage or parking lot for which the applicant seeks a permi
9	(14-17) A security plan for the parking garage or parking lot. The security plan
10	must specify the hours of operation for the parking garage or parking lot and meet the
11	requirements set in Section 1215.2(c). The security plan shall include a certification from the
12	applicant that the applicant shall operate the parking garage or parking lot in compliance with
13	the security plan for the duration of any commercial parking permit issued by the Chief of
14	Police;
15	(15-18) The name and address of the person authorized to accept service of
16	process for the applicant; and
17	(46-19) Any other information that the Chief of Police finds reasonably necessary
18	to investigate the application.

Section 2. Effective Date. This ordinance shall become effective 30 days after

ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board

enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the

of Supervisors overrides the Mayor's veto of the ordinance.

garage or parking lot, along with the number of individuals that live in each zip code. This list shall

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Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance. APPROVED AS TO FORM: DENNIS J. HERRERA, City Attorney By: JOSHUA S. WHITE Deputy City Attorney n:\legana\as2013\1400136\00876913.doc



GROSS RECEIPTS TAX AND BUSINESS REGISTRATION FEES ORDINANCE

CHANGE IS COMING!

If there are three things you take away from this presentation.

Registration Fees for All Businesses are Increasing in

Many businesses will qualify for a small business exemption from the Payroll Expense Tax and/or Gross Receipts Tax

The Office of the Treasurer & Tax Collector will publish forms and instructions to assist taxpayers

You can find a detailed summary of the Ordinance at the following website:

www.sftreasurer.org/grossreceipts

LEGISLATIVE PROCESS

soard of

Supervisors/Mayor

Proposed changes to local taxes, subject to voter approval

Voters

Approved Proposition E in November 2012 with over 70% support, instituting the Gross Receipts Tax and changing Business Registration Fees

Treasurer-Tax Collector

Implements Gross Receipts Tax and Business Registration Fees approved by voter May issue rules and regulations to assist in taxpayer compliance

Only the Board of Supervisors or Voters may amend the law



DEFINITION OF GROSS RECEIPTS (SEC. 952.3)

- services, dealings in property, interest, rent, royalties, dividends, licensing fees, other whatever source derived, including, but not limited to, amounts derived from sales, "Gross receipts" means the total amounts received or accrued by a person from fees, commissions and distributed amounts from other business entities.
- Gross receipts includes but is not limited to all amounts that constitute gross income for federal income tax purposes.
- receipts at the time such receipts are recognized as gross income for federal income Gross receipts, including advance payments, shall be included in a taxpayer's gross tax reporting purposes.
- The law contains specific inclusions and exclusions from gross receipts for a number of industries, such as construction and financial services.

EXCLUSIONS & CREDITS

Receipts excluded from Gross Receipts

- Federal, State, and Local Taxes (Sec. 952.3(c))
- Gifts, Grants, and Loans (Sec. 952.3(d))
- Investments and Financial Instruments (Sec. 952.3(d) and (e))
- Amounts Received from Pass-Through Entities and Entities Related to the Taxpayer (Sec. 952.3(d))
- 50% of Receipts from Rent Controlled Units (Sec. 954(d))
- Receipts from Property Sales Subject to Transfer Tax (Sec. 954(e))

Credits Against Tax Liability

- Tax Paid Elsewhere On Same Gross Receipts (Sec. 954(g))
- "Payroll Expense Tax Exclusion" Credit (Sec. 960)

Limit on Tax Liability

Central Market Street Limit (Sec. 961)

EXEMPT ENTITIES-GROSS RECEIPTS TAX

Small Business
Enterprise with \$1
million or less of gross
receipts
(Sec. 954.1)

Income Tax
Exempt
Organizations
(Sec. 954(a)) without
unrelated trade or
business income

Constitutionally and Legally Exempt Organizations (Sec. 954(c) &(f))

RELATED ENTITIES & COMBINED RETURNS

- registration fee, taxpayers must file returns on a combined basis For purposes of both the gross receipts tax and the business with all of their related entities.
- required to have its income reflected on a combined return with the taxpayer under provisions of the California Revenue and Section 952.5 defines a "related entity" as one permitted or Taxation Code.
- taxpayer and other commonly-owned entities as reported on the Such taxpayers are required to determine their gross receipts tax and registration fee based on the gross receipts from the combined return.
- That single return will report the gross receipts for all business locations of the person and all of its related entities.
- Section 956.3 provides rules related to filing combined returns.

GROSS RECEIPTS TAX CATEGORIES

SEC. 953)



Retail Trade; Wholesale Trade; and Certain Service



Manufacturing;
Transportation and
Warehousing;
Information; BioTechnology; Clean
Technology; and Food

Services



Accommodations; Utilities; and Arts, Entertainment and Recreation



Private Education and Health Services, Administrative and Support Services, and Miscoelianeous Business Activities



Construction



Financial Services; Insurance; and Professional, Scientific and Technical Services



Real Estate and Rental and Leasing Services



Administrative Office Activities

DETERMINING GROSS RECEIPTS IN THE CITY

There are three methods of determining Gross Receipts in the City under the Ordinance

Allocation of
Receipts from
Real, Personal,
Tangible, and
Intangible
Property
(Section 956.1)

Apportionment of Receipts Based on Payroll (Section 956.2)

Receipts

derived from or related to properties located or used within the City (Section 953.3(e), 953.7(c))

Section 953 specifies which method applies to determining Gross Receipts in the City for each Gross Receipts Tax Category

January 2014

MULTI-YEAR PHASE IN

Section 903.1 and Section 959 specify how the Controller must calculate tax rates during the phase in period, based on actual collections of the faxes

Receipts Base Rate Adopted Gross

25%

10% Receipts Base Rate Adopted Gross

Payroll Expense Tax Rate

Payroll Expense

1.250%

1.350%

2016 2017

Receipts Base Rate Adopted Gross

20%

Payroll Expense

0.750%

Receipts Base Rate Adopted Gross

100% 75%

Payroll Expense

0.375%

Receipts Base Rate Adopted Gross

Payroll Expense Tax Rate

%000.0

6 January 2014

FY 2014-15 BUSINESS REGISTRATION FEES (SEC.855(C))

Payroll Expense for the Immediately Preceding Tax Year	Annual Registration Fee
\$0 to \$66.66	\$75
\$66.67 to \$75,000	\$150
\$75,001 to \$100,000	\$250
\$100,001 to \$150,000	\$500
\$150,001 to \$200,000	\$200
\$200,001 to \$250,000	\$800
\$250,001 to \$1,000,000	\$300
\$1,000,001 to \$2,500,000	\$800
\$2,500,001 to \$5,000,000	\$5,000
\$5,000,0001 to \$10,000,000	\$15,000
\$10,000,001 to \$25,000,000	\$25,000
\$25,000,001 to \$40,000,000	\$30,000
\$40,000,001 and Over	\$35,000

January 2014

FY 2015-16 BUSINESS REGISTRATION FEES (SEC.855(E))

ear Annual Registration Fee	06\$		\$250	\$500	\$700	\$300	\$500	\$1,500	\$5,000	\$12,500	\$22,500	000'08\$	\$35,000
Gross Receipts for the Infraodiately Preceding Tax Year	\$0 to \$100,000	\$101,000 to \$250,000	\$250,001 to \$500,000	\$500,001 to \$750,000.	\$750,001 to \$1,000,000	\$1,000,001 to \$2,500,000	\$2,500,001 to \$7,500,000	\$7,500,001 to \$15,000,000	\$15,000,001 to \$25,000,000	\$25,000,001 to \$50,000,000	\$50,000,001 to \$100,000,000	\$100,000,001 to \$200,000,000	\$200,000,001 and Over

Ξ January 2014

TAX TIMELINE:

2014

Payroll Expense Tax Filing (2013) Feb 28, 2014

Quarterly Payroll/Gross Receipts Tax Payment* Apr 30, 2014 New Business Registration Fees (Payroll Based)* May 31, 2014

Quarterly Payroll/Gross Receipts Tax Payment* Jul 31, 2014 Quarterly Payroll/Gross Receipts Tax Payment* Oct 31, 2014

2015

Payroll/Gross Receipts Tax Filing (2014)* Feb 28, 2015

Quarterly Payroll/Gross Receipts Tax Payment* Apr 30, 2015 New Business Registration Fees (Gross Receipts Based)* May 31, 2015

Quarterly Payroll/Gross Receipts Tax Payment*

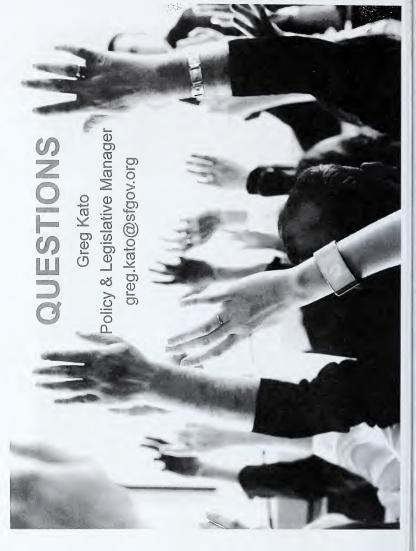
Receipts Tax Paymer Jul 31, 2015 Quarterly Payroll/Gross Receipts Tax Payment* Oct 31, 2015

2016

Payroll/Gross Receipts Tax Filing (2015)* Feb 29, 2016

Quarterly Payroll/Gross Receipts Tax Payment* Apr 30, 2016 Business Registration Fees (Gross Receipts Based)* May 31, 2016

Quarterly Payroll/Gross Receipts Tax Payment* Jul 31, 2016 Quarterly Payroll/Gross Receipts Tax Payment* Oct 31, 2016



OUTREACH PLAN

January 27, 2014

Small Business
Commission



OVERVIEW

In Nov. 2012, voters overwhelming approved Proposition E, Business Tax Reform, also known as the Gross Receipts Tax and Business Registration Fees Ordinance.

- SF was the only City with a payroll expense tax
- · Fair and broad based
- Fosters job creation and encourages economic growth

Beginning in 2014, the City will phase in the Gross Receipts Tax and reduce the Payroll Expense Tax over a five-year period. Business License Fees will increase for all businesses.

Exempt: Small business with less than \$1 million in gross receipts and residential property owners with fewer than four units in a building Over 90,000 registered businesses in San Francisco will be affected.

- Comprehensive Outreach Plan
- Focus is to serve businesses with Limited English Proficiency

OUTREACH PLAN

The City will be targeting internal and external stakeholders through a variety of methods, including:

- Website www.sfbiztax.org
- Merchant walks along commercial corridors
- Town Hall meetings & monthly workshops
- Community presentations to merchant groups
- Media outreach and advertising
- Social Media
- 311
- City department in-reach
- Factsheets & Collateral materials translated into multiple languages

OUTREACH PLAN

PRIMARY STAKEHOLDERS:

- Mayor's Office
- Board of Supervisors
- City Agencies
- Small Businesses
- · Chambers of Commerce
- Trade and advocacy associations
- Economic Development organizations
 - Neighborhood merchant groups
- Multicultural Community Based Organizations (CBOs)



MESSAGE

Business Taxes are changing in 2014

- · The best thing you can do is get educated about how your business taxes might change and consult a tax professional
- Tax Reform under Prop E was passed with 70% of the vote in a high voter turnout election
- The large majority of businesses will not be impacted by the new gross receipts tax
- All businesses will see their registration fees increase in May
- Your business taxes under Prop E may go down in some cases, and may go up in some cases

TIMEFRAME

2014	JUNE
2014	YAM
2014	APRIL
2014	HORAM
2014	YAAUABAA
Launch Outreach Campaign Webpage: www.sfbiztax.org Social Media Campaign External outreach/ presentations to the Small Business Commission, Merchant Assoc., Chambers of Commerce, Trade and Advocacy organizations	Mailings • 90K pieces, Biz 1,2,3,4 Flyer • 15K pieces, Deadline February 28, 2014 (Payroll Expense Tax for 2013 only)
2014	YAAUNAL

TIMEFRAME

2014

YAM 2014 APRIL 2014 **MARCH** 2014 Community presentations at merchant organizations Door to door outreach along commercial corridors Announce and Host First Monthly Workshop/Townhall at Main Library Unveil MUNI Bus Ads & Shelters Thursday, Feb. 6 External Outreach (cont.) **YAAUAB3**7 2014 2014 YAAUNAL

JUNE

IMEFRAME

May 31, 2013 Monthly Workshop at the Main Library Thursday, May 1, 2014 TX Deadline: Annual Business Registration Renewal is due May 31, 2013	Outreach/Education Opportunity - Office of Small Business; Small Business Week (date TBD)	External Outreach Continues • Presentation totical meachan groups • Doal-to-door outreach with torest in Negliborhoods Jobs Squist • Social Media • Social Media
and a second second		and the second second and the second second
2014		JIA9A
2014		HDAAM
2014	KA	AUABBA
11.07	5 X	HAUNAL

2014

JUNE

BIZ TAX ADVISORY GROUP

- Representatives from various large and small business sectors
- Members to guide and support communications, outreach, and programming
- · Members to provide recommendations and assist with outreach and education
- Regular meetings



HOW YOU CAN HELP

Share the information with your members through:

- Website
- Newsletters
- Emails
- Social Media
- Merchant Associations
- Social Networks

how to enhance outreach & communications Solicit Feedback from your networks on

Host presentations with the City





GROSS RECEIPTS OUTREACH MATERIALS



Merchant Association/Other Presentations	Date		Contact	Presenter
The second of the second of the		Time/Location		
BOS Budget and Finance	12/12/2012	City Hall	Greg	Greg Kato
BOMA	2/15/2013	BOMA	Greg	Greg Kato
Chamber of Commerce Tax	2/10/2010		Greg	Greg Kato
Committee		Shareh and	dada	
Small Business Commission	2/27/2013	Chamber	Greg	Greg Kato
	2/28/2013	City Hall		C V
Hotel Council	3/27/2013	Hotel Council	Greg	Greg Kato
SF Citi	4/9/2013	SF Citi	Greg	Greg Kato
Chris Write Committee on jobs	4/24/2013	Committee on Jobs	Greg	Greg Kato
Mayor's meeting with Chamber of				
Commerce	4/25/2013	Chamber	Greg	Greg Kato
lana New, SF Apartments Owners Association	5/15/2013	Apartment Association	Greg	Greg Kato
Golde Gate Restaurant Association	5/20/2013	GG Restaurant Association	Greg	Greg Kato
Chamber of Commerce Board	6/20/2013	Chamber	Greg	Greg Kato
Chamber of Commerce	9/12/2013	Chamber	Greg	Greg Kato
Presidio Tenants	10/22/2013	Presidio	Greg	Greg Kato
San Francisco Chambers	1/14/2014	12:00 – 1pm /San Francisco Chamber of Commerce	Taryn Taddeo	Greg
Fillmore Street Merchants	1/15/2014	10:30:00 AM/TBD	Monetta White	Marianne/Greg Tent
Hood and Strong LLP, Webinar	1/15/2014	3:00-4:00 pm, 100 First Street, 14th Floor	Maria Giambona	Greg Kato
West Portal Merchants	1/16/2014	9:30:00 AM, 98 West Portal 6:30 PM/Recology, 901 7th	Mary Mogannam Kieron Sinnette	Marianne
SFCDMA, San Francisco Council of District Merchants MCMA, Mission Creek Merchants	1/21/2014	Street 9:30AM/Asiento 2730 21Stre at	Kieron Sinnette	Greg Kato Marianne
Association The Clement Street Merchants	1/23/2014	Bryant	Aleron Simiene	Iviananne
The Generic Screet West and	1/23/2014	· 10:30/TBD	Cynthia Huie	
Small Business Commission	1/27/2014	5:30, Room 400, City Hall	Regina Dick - Endrizi	
Polk Street Merchants	1/31/2014	9:00 AM/TBD	<u>Duncan Ley</u>	Greg Kato/Tent
Castro Merchants	2/6/2014	Recreation Center (EVRC) at 100 Collingwood, between 18th &	Richard Magary	Greg Kato
SF Business Tax Presentation	2/6/2014	2:00 p.m., Latino Room, San Francisco Public Library	<u>Marianne</u>	Greg Kato
Women's Initiative for Self Employment	2/10/2014		Shannon Penn	
Excelsior Merchant Walk	2/40/2044	TBD/TBD	AP1- Ash	No.
Excelsior Merchant Walk	2/10/2014	10:00am, 3S San Juan Avenue	Nicole Agbayani	Marianne
Union Square Merchants Association	2/11/2014	8:30/323 Geary Street, Room, 203	Karin Flood	Greg Kato
Potrero Dogpatch Merchants Association (PDMA)	2/11/2014	9:4S/Goat Hill Pizza	Keith Goldstein	Marianne

BTAG Meeting	2/12/2014		Marianne	
		8:30 Room 305, City Hall		
South Beach Mission Bay	2/18/2014	4:00/TBD	Kim Kobasic	
Yerba Buena Alliance	3/6/2014	8:45am/TBD	Virgina	
SF Business Tax Presentation	3/6/2014	2:00 p.m., Latino Room, San Francisco Public Library	Marianne	Greg Kato
SF Business Tax Presentation	4/3/2014	2:00 p.m., Latino Room, San Francisco Public Library	Marianne	Greg Kato
BTAG Meeting	4/12/2014	8:30 Room 305, City Hall	Marianne	
SF Business Tax Presentation	5/1/2014	2:00 p.m., Latino Room, San Francisco Public Library	Marianne	Greg Kato
BTAG Meeting	5/9/2014	8:30 Room 305, City Hall	Marianne	
SF Business Tax Presentation	6/5/2014	2:00 p.m., Latino Room, San Francisco Public Library	Marianne	Greg Kato
BTAG Meeting	6/14/2014	8:30 Room 305, City Hall	Marianne	
SF Business Tax Presentation	7/3/2014	2:00 p.m., Latino Room, San Francisco Public Library	Marianne	Greg Kato
BTAG Meeting	7/11/2014	8:30 Room 305, City Hall	Marianne	
BTAG Meeting	3/19/2014 t	8:30 Room 305, City Hall	Marianne	

Company Name	Name
Arab American Grocers*	Shakib Kaileh
Asian and Pacific Islander Biz & Info Services*	Lily Lo
Asian Business Association*	Basilio Chen
Asian Business League	Luen Lam
Asian Inc.	Michael Chan,
Bayview Business Resource Center	
California Music and Cultural Association	Alix Rosenthal
Chinatown Community Development Center	Cindy Wu
Chinese Newcomers Service Center(CNSC)	Carlos Serrano-Quan
Golden Gate Business Association	Jason Holstein
Golden Gate Business Association	Eric GoForth
Golden Gate Restaurant Association	Rob Black
La Cocina	Caleb Zigas
Latin Business Network*	Erick Arguello
Lawyers' Committee for Civil Rights	Tyler Rossetti
LGBT Center / Economic Development	Eugénie FitzGerald
Lower Polk Neighbors & Merchants	Ron Case
Marina-Cow Hollow Neighbors and Merchants	Patricia Vaughey
Market Street Association	Carolyn Diamond
Mission Chinese Bus. Improvement Group*	
Mission Economic Development Agency	Luis Granados
National Assoiciation of Women Business Owners	Wendi Moradian,
National Assoiciation of Women Business Owners	Kathleen Thurmond
National Assoiciation of Professional Women	Melissa Werner
Northeast Community Federal Credit Union	Lily Lo
Pacific Community Ventures	Beth Sirull
Plumbing-Heating-Cooling Contractors (PHCC) of SF	Jerry Hotarek
S.F. Fashion Industries*	
S.F. Locally-Owned Merchant Alliance	Hut Landon
S.F. Made	Kate Sofis
S.F. Renaissance Entrepreneurship Center	Sharon Miller
San Francisco Community Business Law Center	Felicia Vallera
Singapore American Business Association	Alicia Khaw
Small Business Advocates	Stephen Cornell
Small Business California	Scott Hauge
Small Business Development Center	Al Dixon
Small Business Network	Ramsey Moureau
Southeast Asian Community Center	Philip Nguyen
TMC Working Solutions	Emily Gasner



SE BUSINESS TAX CHANGE AHEAD

In 2014, San Francisco
Business Taxes will change.

To get you started...

1.

Are you a business with...

2.

Are you a business with...

3.

Are you a business with... 4.

Are you a business with...

less than \$150,000 in SF Payroll Expense

less than \$500,000 in SF Gross Receipts \$260,000 or less in SF Payroll Expense

\$1,000,000 or less in SF Gross Receipts more than \$260,000 in SF Payroll Expense

more than \$1,000,000 in SF Gross Receipts

then...

you will not have to file a Payroll Expense or Gross Receipts Tax Return

but...

you will have to pay a new Business Registration Fee

then...

you will have to file a Payroll Expense and Gross Receipts Tax Return

and...

you will have to pay a new Business Registration Fee

but...

you will have a "Small Business Enterprise" exemption and will not owe additional tax

and...

have locations only in SF

and...

operate in only one business category

then...

you may qualify to use a simple Payroll Expense and Gross Receipts tax form

and...

you will have to pay a new Business Registration Fee

and...

have locations both inside

or...

operate in multiple business categories

or...

claim tax credits

then...

you will need to provide more information in your Payroll Expense and Gross Receipts tax form

and...

you will have to pay a new Business Registration Fee









Learn how your business tax will be changing. For more information, go to www.sfbiztax.org, call 311 or (415) 701-2311 or contact a tax professional for additional assistance.



San Francisco Small Business Commission Rules of Order

The Small Business Commission shall exercise such other powers and duties as shall be prescribed by the San Francisco Board of Supervisors; and

The Small Business Commission may adopt such rules and regulations consistent with this Charter and ordinances of the City and County. No rule or regulation shall be adopted, amended or repealed, without a public hearing. At least ten days' public notice shall be given for such public hearing. All such rules and regulations shall be available for public review and comment for 10 days before they are finally adopted by the Commission.

Article II Officers

Section 1: Officers

The Officers of the Commission shall be a President and a Vice-President. The Officers shall serve at the pleasure of the Commission.

Section 2: Term of Office

The term of each office shall be one year.

Section 3: Election of Officers

Elections of Officers shall be conducted at the regular meeting of the Commission in January of each year.

In the event the President is unable to complete his or her term of office, the Vice President will serve as President until the next regular meeting. At the next regular meeting, the Commission shall conduct an election for President to fill the vacancy for the balance of the unexpired term. In the event the Vice President is elected as President, there shall be an election for a new Vice President at that meeting. If the position of Vice President is vacated before the expiration of a term, it shall remain vacant until the next regularly scheduled meeting, at which time an election shall be held.

Section 4. Duties of the President

The President shall preside at all meetings of the Commission. The President, working with the Commission members and the Office of Small Business staff, shall oversee the preparation and distribution of the agenda for all Commission meetings. Unless the Commission specifies otherwise, the President is empowered to appoint members to special committees formed by the Commission. The President shall conduct an annual review of the Executive Director and staff.

San Francisco Small Business Commission Rules of Order

Section 5. Duties of the Vice President

In the absence of the President, the Vice-President shall preside at meetings of the Commission.

Article III Meetings

Section 1. Regular Meetings

Regular meetings of the Commission shall be held on the second Monday of each month at 5:30 p.m. and the fourth Monday of each month at 2:00 p.m. at City Hall, Room 400, 1 Dr. Carlton B. Goodlett Place, San Francisco California.

Section 2. Special Meetings

The President or a majority of the members of the Commission may call special meetings.

Section 3. Notice of Meetings

Agendas of all regular meetings and notices and agendas of all special meetings shall be posted at the meeting site, the San Francisco Main Library and on the Commission's website. Agendas and notices shall be provided to each Commissioner and any person who files a written request for such notice with the Commission and shall be available at the Office of Small Business upon request.

Section 4. Cancellation of Meetings

The President may cancel a meeting if he or she is aware that a quorum of the Commission will not be present, or if the meeting date conflicts with a holiday or other responsibilities of the Commissioners. Notices of cancellations shall be posted at the meeting site, the San Francisco Main Library and on the Commission's website. If time permits, notice of meetings cancellations shall be mailed or faxed to all members of the public who have requested, in writing, to receive notices and agendas of Commission meetings and shall be available at the Office of Small Business upon request.



SMALL BUSINESS COMMISSION DRAFT MEETING MINUTES



Monday, January 27, 2014 2:00 P.M. CITY HALL, ROOM 400 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102



SMALL BUSINESS COMMISSIONERS

Stephen Adams, President Monetta White, Vice President Kathleen Dooley, Mark Dwight William Ortiz-Cartagena, Irene Yee Riley

1. Call to order and roll call.

The meeting was called to order at 2:08 PM. Commissioners Adams, Dooley, Dwight, Yee Riley, and White were present. Commissioner Ortiz-Cartagena was absent, and one seat on the Commission was vacant.

2. General Public Comment. (Discussion Item)

General Public Comment was called for and no members of the public requested to speak.

3. Approval of the January 13, 2014 regular meeting minutes. (Action Item)

Explanatory Documents: Draft January 13, 2014 regular meeting minutes

Motion: Commissioner Dwight motioned to adopt the meeting minutes.

2nd: Commissioner Dooley

Aye: Adams, Dooley, Dwight, Yee Riley, and White

Nav: None

Absent: Ortiz-Cartagena



4. Presentation of a Small Business Commission Certificate of Honor recognizing Commissioner Luke O'Brien for more than four years of service on the Commission. (Discussion Item)

Former Commissioner O'Brien was not present at the meeting when this item was called. The President delayed this agenda item until Mr. O'Brien arrived, but he never appeared at the item and it was continued to the next regular meeting of the Commission by the President (See Item 11 – President's Report).

 Discussion and possible action to make recommendations to the Small Business Commission on Board of Supervisors File No. 131192 [Police, Administrative Codes - Considering Criminal History in Employment and Housing Decisions]. (Discussion and Possible Action Item)

Explanatory Documents: BOS File No. 131192; BOS File No. 131192 Legislative Digest

Andrea Bruss, Legislative Aide to Supervisor Malia Cohen, presented. She described the underlying purposes for the legislation and the interest in the legislation by its sponsors. Ms. Bruss's presentation focused on the employer provisions of the legislation, although she indicated most of them were similar to provisions made for

SMALL BUSINESS COMMISSION 1 Dr. Carlton B. Goodlett Place, Room 110 San Francisco, CA 94102 415.554.6134

housing decisions and hiring by City contractors and subcontractors. The changes proposed in this legislation parallel similar efforts made in other parts of the country to "ban the box" and aid the reintegration into the economy of those with conviction histories. The Board of Supervisors' Land Use and Economic Development Committee will consider this item later in the day, and it is expected to accept amendments to the legislation in the following major areas:

- 1) Eliminating the employer questionnaire, replacing it only with a summary indication by employers for disclosure of which conviction(s) were considered directly related; and,
- Adding an additional requirement on employers, subject to Office of Labor Standards Enforcement (OLSE) verification, to indicate whether a direct relatedness analysis was conducted for each hiring action.

Several commissioners asked questions of Ms. Bruss:

Commissioner Dwight asked whether the job posting itself should declare whether a background check would be performed at some point during the recruitment to alert candidates. Ms. Bruss indicated that no such requirement was contained in the ordinance, but she expects the rulemaking process to publish guidelines to help standardize disclosures in job postings. Commissioner Dwight next stated his only experience with criminal activity at his business was with an employee with no conviction history, and asked if any other businesses or groups opposed this legislation. Ms. Bruss responded that during outreach, it was mostly large businesses that expressed concerns since most small businesses were not conducting background checks anyways. The major concerns centered on a private right of action for applicants, fears of OLSE substituting its judgment for a business's regarding direct relatedness, and the burden of the employer questionnaire. Both of these concerns were addressed in the current version of the legislation.

Commissioner Dooley asked about the experiences of the other cities mentioned to have implemented similar provisions. Ms. Bruss indicated that Seattle has yet to implement its recently enacted requirements. Buffalo, NY and Newark, NJ have implemented their requirements, but Ms. Bruss stated she is not familiar with their experiences. The current proposal includes a reporting requirement to help identify trends in the types of complaints made against employers.

Commissioner White asked whether businesses were liable for hiring former offenders in the event he or she reoffended at the business premises. Ms. Bruss stated that liability is unchanged by this ordinance, as businesses still may still choose to perform a background check or not, leaving their underlying liability unchanged. Commissioner White explained that her business frequently works with former offenders and provides job training to help them gain employment.

General Public Comment was called for and two members of the public requested to speak.

Dee Dee Workman, San Francisco Chamber of Commerce, communicated that the Chamber's Board of Directors voted unanimously to support the proposed legislation. She thanked Supervisors Kim and Cohen for early outreach to the Chamber which allowed it to engage with its membership and provide key input into the process. The Chamber's main concerns with the initial legislation have been resolved and extends its support.

Roxanne Balousek, Associate Director of Treasure Island Homeless Development Initiative (TIHDI), expressed her support for the legislation. Many of TIHDI's clientele are persons with conviction histories, which presents a significant barrier to employment. Her organization is hopeful this legislation will help her clients gain employment, which prevents most from returning to substance abuse and criminal activity.

Public comment was closed.

Motion: Commissioner Dwight motioned to recommend approval of the legislation with amendments described

by Ms. Bruss and expected later in the afternoon by the Board of Supervisors' Land Use and Economic

Development Committee.

2nd: Commissioner Dooley

Ave: Adams, Dooley, Dwight, Yee Riley, and White

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Nav: None

Absent: Ortiz-Cartagena

6. Discussion and possible action to make recommendations to the Small Business Commission on Board of Supervisors File No. 131062 [Police Code - Reporting Information About Employees of Private Parking Garages and Parking Lots]: Ordinance amending the Police Code to require applicants for commercial parking permits to provide the residential zip code, gender, and duration of employment for employees and other individuals working in parking lots or parking garages. (Discussion and Possible Action Item)

Explanatory Documents: BOS File No. 131062; BOS File No. 131062 Legislative Digest

Supervisor Wiener, one of the legislative sponsors, presented. He explained that this is a simple legislative proposal aimed at helping the City better understand the operation of parking businesses. The legislation is not intended to tarnish the industry, as most operators are meticulous in their compliance with the law. However, there is a minority of unscrupulous operators that are putting legitimate operators at a competitive disadvantage. The demographic information required to be reported by the legislation, which will not be attributable to individuals as it will be reported in the aggregate, is intended to help provide a better understanding of certain specific parking operator employment practices. For example, tenure data will help identify operators who are maintaining continual employee turnover to prevent employees from rising in the wage scale. Finally, Sup. Wiener has requested the Budget and Legislative Analyst to report on how the City monitors parking operator compliance with labor regulations and parking tax payments. Sup. Wiener feels this legislation will not place a burden on or be onerous for parking operators.

Several commissioners asked questions of Supervisor Wiener:

Commissioner Dwight asked why the parking sector was singularly identified by this legislation. Sup. Wiener stated that a significant minority of the sector has a historic reputation for flouting City regulations. Commissioner Dwight then asked if there have been any objections to this legislation. Sup. Wiener described his outreach efforts to a major private parking operator, who failed to follow-up on the contact, which he interpreted as its comfortableness with the legislation's requirements. Commissioner Dwight then asked how the City will validate that unscrupulous operators who may otherwise be evading the law already will not simply falsify employee information reports. Sup. Wiener indicated that vulnerability exists in every regulatory regime, but the City retains the power to audit information contained in these permits.

Commissioner Dooley asked for Sup. Wiener to estimate how much time parking operators will spend complying with these new reporting requirements. He stated that he did not believe it would take very much time. Operators with payroll systems can easily run reports on hire and termination dates, and should very easily be able to compile gender and residence ZIP code information.

Commissioner Yee Riley referenced concerns at the Legislation and Policy Committee hearing of this item about how gender and ZIP code would inform any investigative function, asking the supervisor for his opinion. Sup. Wiener indicated the aggregated data will be public and available for public analysis.

Commissioner White asked whether this would apply only to private lots, and if the San Francisco Municipal Transportation Agency (SFMTA) was already collecting similar data. Sup. Wiener indicated that SFMTA operates its lots by contract with private operators, and feels it can accomplish the legislation's goals within the provisions of its contracts. Sup. Wiener also indicated that SFMTA lot operators tend to receive much more scrutiny and supervision that traditional private parking operators. Commissioner White then asked what percentage of parking lots are privately operated, but Sup. Wiener indicated he does not know the proportionate breakdown.

General Public Comment was called for and one member of the public requested to speak.

Mark Gleason, Executive Officer of Teamsters Union Local 665, expressed his support for the legislation. Local 665 has about 6,000 members, 1,500 of which are employed in the San Francisco parking industry across roughly 350 work sites comprised of large office buildings, hotels, and SFMTA garages. He estimates another

SMALL BUSINESS COMMISSION 1 Dr. Carlton B. Goodlett Place, Room 110 San Francisco, CA 94102 415.554.6134

500 persons working in the industry in traditionally non-union positions such as management, perhaps 150 of which are those working in what he terms as the "underground economy." Those workers are not being paid in accordance with applicable labor laws, and Local 665's previous efforts to call for law enforcement action on behalf of these works have been unsuccessful. Mr. Gleason believes that by making the existing Police Code provisions applying to private parking operators more rigorous, it will discourage unscrupulous operators from continuing to operate in this fashion.

Public comment was closed.

Motion: Commissioner Dwight motioned to recommend approval of the legislation as drafted.

2nd: Commissioner Dooley

Aye: Adams, Dooley, Dwight, Yee Riley, and White

Nay: None

Absent: Ortiz-Cartagena

7. Presentation on implementation of the Gross Receipts Tax and ongoing education and outreach activities by the Office of Treasurer and Tax Collector. (Discussion Item)

Explanatory Documents: <u>Gross Receipts Tax General Presentation</u>; <u>Outreach Presentation</u>; <u>Outreach Event Schedule</u>

Greg Kato, Office of the Treasurer and Tax Collector, and Marianne Thompson of Barbary Coast Consulting, presented. Mr. Kato provided an overview of the significant provisions of the Gross Receipts Tax, emphasizing that all business registration fees will increase at the next renewal and again in 2015, and the small business exemption available in the payroll expense tax will continue in a similar form in the gross receipts tax. Ms. Thompson focused on marketing and outreach activities she and Mr. Kato have already completed and will undertake in the coming months. She emphasized that outreach has been front-loaded to remain when the and of business registration fee changes. There will be numerous outreach activities over the coming months, and the primary gross receipts tax information site is now available online at http://www.sfbiztax.org. The site contains a calendar of upcoming outreach events.

Several commissioners asked questions of Mr. Kato and Ms. Thompson:

Commissioner White thanked Mr. Kato and Ms. Thompson for their efforts, remarking that it is the best outreach she has experienced by the City thus far. She asked whether these outreach activities could continue with some sort of integration with Small Business Week in May. Ms. Thompson confirmed that integration is planned during the week's events.

Commissioner Yee Riley asked whether the outreach materials available now have been translated into Chinese and Spanish. Ms. Thompson confirmed the Business 1-2-3-4 flyer has already been translated into Chinese and Spanish, and the library flyer is in the process of being translated into both languages. Various outreach events will also be conducted in Chinese and Spanish.

Public Comment was called for and no members of the public requested to speak.

No formal action was taken.

 Election of Officers – Small Business Commission President: In accordance with the Commission's Rules of Order, Article II, Section 3, an election of the President must occur at the regular meeting of the Commission in January of each year. The President shall serve a term of one year, and shall be elected upon a vote of the Commission. (Action Item)

Acting Commission Secretary Murdock announced Items 8 and $\dot{9}$ and provided the commissioners with procedural instructions applicable to both.

Commissioner Yee Riley nominated Commissioner Adams for the office of President of the Small Business

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Commission, and the nomination was seconded by Commissioner Dwight. No other nominations were made.

Commissioner Adams made a statement thanking the commissioners for the nomination and commending his fellow commissioners for their efforts assisting small businesses in the city. No other commissioner comments were made.

Public Comment was called for and no members of the public requested to speak.

Roll call vote on the following motions to nominate:

Motion: Commissioner Yee Riley nominated Commissioner Adams.

2nd: Commissioner Dwight

Ave: Adams, Dooley, Dwight, Yee Riley, and White

Nav: None

Absent: Ortiz-Cartagena

By a vote of 5-0, having exceeded the minimum threshold of four votes, Commissioner Adams was elected as President of the Small Business Commission for a 12-month term ending in January 2015.

 Election of Officers – Small Business Commission Vice President: In accordance with the Commission's Rules of Order, Article II, Section 3, an election of the Vice President must occur at the regular meeting of the Commission in January of each year. The Vice President shall serve a term of one year, and shall be elected upon a vote of the Commission. (Action Item)

Acting Commission Secretary Murdock announced Items 8 and 9 and provided the commissioners with procedural instructions applicable to both.

Commissioner Adams nominated Commissioner White for the office of Vice President of the Small Business Commission, and the nomination was seconded by Commissioner Dwight. No other nominations were made.

Commissioner White made a statement thanking the commissioners for the opportunity to serve another term as Vice President, mentioning her enjoyment with the Commission's work and stating that she looks forward to continuing her representation of small businesses. No other commissioner comments were made.

Public Comment was called for and no members of the public requested to speak.

Roll call vote on the following motions to nominate:

Motion: Commissioner Adams nominated Commissioner White.

2nd: Commissioner Dwight

Ave: Adams, Dooley, Dwight, Yee Riley, and White

Nay: None

Absent: Ortiz-Cartagena

By a vote of 5-0, having exceeded the minimum threshold of four votes, Commissioner White was elected as Vice President of the Small Business Commission for a 12-month term ending in January 2015.

10. Director's Report. (Discussion Item)

Director Dick-Endrizzi congratulated Commissioner Adams on his election to a third term as President and Commissioner White to a second term as Vice President. She then delivered a written and verbal Director's report. Director Dick-Endrizzi referenced Mayor Lee's recent State of the City address and highlighted a few business-specific topics, including his support for continuing small business disability access improvement programs, small business lending programs, and support for the online business portal. Director Dick-Endrizzi announced the Office of Economic and Workforce Development's selection as the Northern California Small

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Business Development Center (SBDC) Lead Center, which the Commission voted to endorse on December 9, 2013. She provided a variety of other updates, including on upcoming efforts related to Mobile Retail and Services (MRS) and the Planning Department's formula retail study.

Commissioner Adams commended Sophie Hayward of the Planning Department for her hard work and successful ongoing outreach efforts related to the formula retail study.

11. President's Report. (Discussion Item)

Commissioner Adams continued Item 4 to the Commission's next regular meeting. He then announced he will attend the Council of District Merchants Associations annual dinner on February 6, and further announced the start of discussions relating to Small Business Week 2014.

12. Vice President's Report. (Discussion Item)

Commissioner White reported her attendance at last week's Council of District Merchants Associations (CDMA) meeting and indicated she also will attend the CDMA's annual dinner on February 6.

13. Commissioner Reports. (Discussion Item)

Commissioner Dooley reported she also will attend the CDMA's annual dinner on February 6. She also reported her attendance at the formula retail working group with the Planning Department, and hopes the researchers will analyze and present the data in a more useful format other than by Supervisorial District. Commissioner Dooley then reported her attendance at the Neighborhood Empowerment Network awards ceremony last week, which she described as inspirational.

Commissioner Yee Riley announced the coming Friday as Chinese New Year, Year of the Horse.

14. General Public Comment. (Discussion Item)

Public Comment was called for and no members of the public requested to speak.

15. New Business. (Discussion Item)

Commissioner Adams requested a future presentation about expanding merchant corridor involvement in graffiti abatement.

Commissioner Dooley referenced a perception by some at the recent formula retail working group meeting that small businesses do not equitably hire minorities. She requested expert presenters at a future meeting to discuss this perception and potential strategies to improve minority hiring.

16. Adjournment. (Action Item)

Motion: Commissioner Dwight motioned to adjourn.

2nd: Commissioner Yee Riley

Aye: Adams, Dooley, Dwight, Yee Riley, and White

Nav: None

Absent: Ortiz-Cartagena

The meeting was adjourned at 3:48 PM.







2/10/14

SMALL BUSINESS COMMISSION NOTICE OF MEETING & AGENDA



Monday, February 10, 2014 5:30 P.M. CITY HALL, ROOM 400

1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102

CUMENTS DED

SMALL BUSINESS COMMISSIONERS

Stephen Adams, President Monetta White, Vice President Kathleen Dooley, Mark Dwight William Ortiz-Cartagena, Irene Yee Riley

FEB - 7 2014

1. Call to order and roll call.

- General Public Comment: Allows members of the public to comment generally on matters within the Commission's purview, and suggest new agenda items for the Commission's future consideration. (Discussion Item)
- 3. Approval of the January 27, 2014 regular meeting minutes. (Action Item)

Explanatory Documents: Draft January 27, 2014 regular meeting minutes

- 4. Presentation of a Small Business Commission Certificate of Honor recognizing Commissioner Luke O'Brien for more than four years of service on the Commission. (Discussion Item)
- 5. Discussion and possible action to make recommendations to the Board of Supervisors on Board of Supervisors File No. 131205 [Planning Code Production, Distribution, and Repair Zoning]: Ordinece amending the Planning Code to address various revisions to Production, Distribution, and Repair (PDR), integrated PDR, and small enterprise workplace zoning controls to facilitate the establishment of such uses; amending the Administrative Code to delete requirements concerning reporting on integrated PDR, affirming the Planning Department's California Environmental Quality Act determination; and making Planning Code, Section 302, findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1. (Discussion and Possible Action Item)

Explanatory Documents: BOS File No. 131205; BOS File No. 131205 Legislative Digest

Presentation by Jon Lau, Office of Economic and Workforce Development

6. Discussion and possible action to make recommendations to the Board of Supervisors on Board of Supervisors File No. 131207 [Environment Code - Bottled Water]: Ordinance amending the Environment Code to restrict the sale or distribution on City property of drinking water in plastic bottles of 21 ounces or less, set City policy to increase the availability of drinking water in public areas, and bar the use of City funds to purchase bottled water; and making environmental findings. (Discussion and Possible Action Item)

Explanatory Documents: BOS File No. 131207; BOS File No. 131207 Legislative Digest

Presentation by Catherine Rauschuber, Legislative Aide to Supervisor David Chiu

7. Director's Report: Update and report on the Office of Small Business and the Small Business Assistance Center, update on department programs, recent announcement from the Mayor, newly introduced policy matters, update on legislative matters, and announcements regarding small business activities. In addition, this Director's

Report will seek clarification on a New Business item suggested at the last commission meeting regarding minority hiring and employment by small businesses, as well as a preliminary discussion of topics for the uncomine Commission Retreat tentatively scheduled for March 5, 2014. (Discussion Item)

- Legislation and Policy Committee Report: Allows the Chair to report on recent committee activities and make announcements. (Discussion Item)
- President's Report: Allows the President to report on recent small business activities and make announcements that are of interest to the small business community. (Discussion Item)
- 10. Vice President's Report: Allows the Vice President to report on recent small business activities and make announcements that are of interest to the small business community. (Discussion Item)
- 11. Commissioner Reports: Allows Commissioners to report on recent small business activities and make announcements that are of interest to the small business community. (Discussion Item)
- 12. General Public Comment: Allows members of the public to comment generally on matters within the Commission's purview, and suggest new agenda items for the Commission's future consideration. (Discussion Item)
- 13. New Business: Allows Commissioners to introduce new agenda items for future consideration by the Commission. (Discussion Item)
- 14. Adjournment. (Action Item)

Public comment will be taken before or during the Small Business Commission's consideration of each agenda item. Copies of explanatory documents and other related materials listed in this agenda are available for download by linking to the website agenda or www.sfgov.org/sbc, and are available for public inspection and/or copying at City Hall, Room 110. Please call Christian Murdock at (415) 534-6407 to make arrangements for pick up or review.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that city operations are open for the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-6083. To obtain a free corp of the Sunshine Ordinance contact:

City Hall, Room 244 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4683 Office: (415) 554-7724 Fax: (415) 554-5163 E-Mail:

sott@sfgov.org

Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website at www.sfgov.org.

Cell Phone and/or Sound-Producing Electronic Device Usage at Hearings

Effective January 21, 2001, the Board of Supervisors amended the Sunshine Ordinance by adding the following provision: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

Disability Access Policy

Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART Station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible MUNI lines serving the Veterans Building are 42 Downtown Loop and the #71 Haight/Noriega and the F line to Market and Van Ness and the Metro stations at Van Ness and Market and at Civic Center. For more information about MUNI accessible services call 923-6142. Accessible parking in the vicinity of the Veterans Building adjacent to Davies Hall and the War Memorial Complex. American Sign Language interprets and/or a sound enhancement system will be available upon request by contacting Milton Edelin at 558-6410 at least 72 hours prior to a hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (1415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

Translation Services

Interpreters for languages other than English are available on request. Sign language interpreters are also available on request. For other accommodation, please call the Department of Human Services staff support representative at 557-5989 at least two business days before a meeting.

Lobbyist Ordinance

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by San Francisco Lobbyist Ordinance [Article II of the San Francisco Campaign and Governmental Conduct Code] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 25 Van Ness Ave., Suite 220, SF 94102 (415) 252-3100, FAX (415) 252-3112 and web site address at http://www.sfgov.org/ethics/

Chemical Sensitivity

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical base products. Please help the City accommodate these individuals.

SMALL BUSINESS COMMISSION 1 Dr. Carlton B. Goodlett Place, Room 110 San Francisco, CA 94102 415.554.6134





SMALL BUSINESS COMMISSION DRAFT MEETING MINUTES



Monday, January 27, 2014 2:00 P.M. CITY HALL, ROOM 400 1 Dr. Carlton B. Goodlett Place. San Francisco, CA 94102

SMALL BUSINESS COMMISSIONERS

Stephen Adams, President Monetta White, Vice President Kathleen Dooley, Mark Dwight William Ortiz-Cartagena, Irene Yee Riley

Call to order and roll call.

The meeting was called to order at 2:08 PM. Commissioners Adams, Dooley, Dwight, Yee Riley, and White were present. Commissioner Ortiz-Cartagena was absent, and one seat on the Commission was vacant.

2. General Public Comment. (Discussion Item)

General Public Comment was called for and no members of the public requested to speak.

3. Approval of the January 13, 2014 regular meeting minutes. (Action Item)

Explanatory Documents: <u>Draft January 13, 2014 regular meeting minutes</u>

Motion: Commissioner Dwight motioned to adopt the meeting minutes.

2nd: Commissioner Dooley

Ave: Adams, Dooley, Dwight, Yee Riley, and White

Nay: None

Absent: Ortiz-Cartagena

4. Presentation of a Small Business Commission Certificate of Honor recognizing Commissioner Luke O'Brien for more than four years of service on the Commission. (Discussion Item)

Former Commissioner O'Brien was not present at the meeting when this item was called. The President delayed this agenda item until Mr. O'Brien arrived, but he never appeared at the item and it was continued to the next regular meeting of the Commission by the President (see Item 11 – President's Report).

Discussion and possible action to make recommendations to the Small Business Commission on Board of Supervisors File No. 131192 [Police, Administrative Codes - Considering Criminal History in Employment and Housing Decisions]. (Discussion and Possible Action Item)

Explanatory Documents: BOS File No. 131192; BOS File No. 131192 Legislative Digest

Andrea Bruss, Legislative Aide to Supervisor Malia Cohen, presented. She described the underlying purposes for the legislation and the interest in the legislation by its sponsors. Ms. Bruss's presentation focused on the employer provisions of the legislation, although she indicated most of them were similar to provisions made for

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housing decisions and hiring by City contractors and subcontractors. The changes proposed in this legislation parallel similar efforts made in other parts of the country to "ban the box" and aid the reintegration into the economy of those with conviction histories. The Board of Supervisors' Land Use and Economic Development Committee will consider this item later in the day, and it is expected to accept amendments to the legislation in the following major areas:

- 1) Eliminating the employer questionnaire, replacing it only with a summary indication by employers for disclosure of which conviction(s) were considered directly related; and,
- Adding an additional requirement on employers, subject to Office of Labor Standards Enforcement (OLSE) verification, to indicate whether a direct relatedness analysis was conducted for each hiring action.

Several commissioners asked questions of Ms. Bruss:

Commissioner Dwight asked whether the job posting itself should declare whether a background check would be performed at some point during the recruitment to alert candidates. Ms. Bruss indicated that no such requirement was contained in the ordinance, but she expects the rulemaking process to publish guidelines to help standardize disclosures in job postings. Commissioner Dwight next stated his only experience with criminal activity at his business was with an employee with no conviction history, and asked if any other businesses or groups opposed this legislation. Ms. Bruss responded that during outreach, it was mostly large businesses that expressed concerns since most small businesses were not conducting background checks anyways. The major concerns centered on a private right of action for applicants, fears of OLSE substituting its judgment for a business's regarding direct relatedness, and the burden of the employer questionnaire. Both of these concerns were addressed in the current version of the legislation.

Commissioner Dooley asked about the experiences of the other cities mentioned to have implemented similar provisions. Ms. Bruss indicated that Seattle has yet to implement its recently enacted requirements. Buffalo, NY and Newark, NJ have implemented their requirements, but Ms. Bruss stated she is not familiar with their experiences. The current proposal includes a reporting requirement to help identify trends in the types of complaints made against employers.

Commissioner White asked whether businesses were liable for hiring former offenders in the event he or she reoffended at the business premises. Ms. Bruss stated that liability is unchanged by this ordinance, as businesses still may still choose to perform a background check or not, leaving their underlying liability unchanged. Commissioner White explained that her business frequently works with former offenders and provides job training to help them gain employment.

General Public Comment was called for and two members of the public requested to speak.

Dee Dee Workman, San Francisco Chamber of Commerce, communicated that the Chamber's Board of Directors voted unanimously to support the proposed legislation. She thanked Supervisors Kim and Cohen for early outreach to the Chamber which allowed it to engage with its membership and provide key input into the process. The Chamber's main concerns with the initial legislation have been resolved and extends its support.

Roxanne Balousek, Associate Director of Treasure Island Homeless Development Initiative (THDI), expressed her support for the legislation. Many of THDI's clientele are persons with conviction histories, which presents a significant barrier to employment. Her organization is hopeful this legislation will help her clients gain employment, which prevents most from returning to substance abuse and criminal activity.

Public comment was closed.

Motion: Commissioner Dwight motioned to recommend approval of the legislation with amendments described by Ms. Bruss and expected later in the afternoon by the Board of Supervisors' Land Use and Economic Development Committee.

2nd: Commissioner Dooley

Aye: Adams, Dooley, Dwight, Yee Riley, and White

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REGINA DICK-ENDRIZZI, EXECUTIVE DIRECTOR CHRISTIAN MURDOCK, ACTING COMMISSION SECRETARY

2

Nav: None

Absent: Ortiz-Cartagena

6. Discussion and possible action to make recommendations to the Small Business Commission on Board of Supervisors File No. 131062 [Police Code - Reporting Information About Employees of Private Parking Garages and Parking Lots]: Ordinance amending the Police Code to require applicants for commercial parking permits to provide the residential zip code, gender, and duration of employment for employees and other individuals working in parking lots or parking garages. (Discussion and Possible Action Item)

Explanatory Documents: BOS File No. 131062; BOS File No. 131062 Legislative Digest

Supervisor Wiener, one of the legislative sponsors, presented. He explained that this is a simple legislative proposal aimed at helping the City better understand the operation of parking businesses. The legislation is not intended to tarnish the industry, as most operators are meticulous in their compliance with the law. However, there is a minority of unscrupulous operators that are putting legitimate operators at a competitive disadvantage. The demographic information required to be reported by the legislation, which will not be attributable to individuals as it will be reported in the aggregate, is intended to help provide a better understanding of certain specific parking operator employment practices. For example, tenure data will help identify operators who are maintaining ontinual employee turnover to prevent employees from rising in the wage scale. Finally, Sup. Wiener has requested the Budget and Legislative Analyst to report on how the City monitors parking operator compliance with labor regulations and parking tax payments. Sup. Wiener feels this legislation will not place a burden on or be onerous for parking operators.

Several commissioners asked questions of Supervisor Wiener:

Commissioner Dwight asked why the parking sector was singularly identified by this legislation. Sup. Wiener stated that a significant minority of the sector has a historic reputation for flouting City regulations. Commissioner Dwight then asked if there have been any objections to this legislation. Sup. Wiener described his outreach efforts to a major private parking operator, who failed to follow-up on the contact, which he interpreted as its comfortableness with the legislation's requirements. Commissioner Dwight then asked how the City will validate that unscrupulous operators who may otherwise be evading the law already will not simply falsify employee information reports. Sup. Wiener indicated that vulnerability exists in every regulatory regime, but the City retains the power to audit information contained in these permits.

Commissioner Dooley asked for Sup. Wiener to estimate how much time parking operators will spend complying with these new reporting requirements. He stated that he did not believe it would take very much time. Operators with payroll systems can easily run reports on hire and termination dates, and should very easily be able to compile gender and residence ZIP code information.

Commissioner Yee Riley referenced concerns at the Legislation and Policy Committee hearing of this item about how gender and ZIP code would inform any investigative function, asking the supervisor for his opinion.

Sup. Wiener indicated the aggregated data will be public and available for public analysis.

Commissioner White asked whether this would apply only to private lots, and if the San Francisco Municipal Transportation Agency (SFMTA) was already collecting similar data. Sup. Wiener indicated that SFMTA operates its lots by contract with private operators, and feels it can accomplish the legislation's goals within the provisions of its contracts. Sup. Wiener also indicated that SFMTA lot operators tend to receive much more scrutiny and supervision that traditional private parking operators. Commissioner White then asked what percentage of parking lots are privately operated, but Sup. Wiener indicated he does not know the proportionate breakdown.

General Public Comment was called for and one member of the public requested to speak.

Mark Gleason, Executive Officer of Teamsters Union Local 665, expressed his support for the legislation. Local 665 has about 6,000 members, 1,500 of which are employed in the San Francisco parking industry across roughly 350 work sites comprised of large office buildings, hotels, and SFMTA garages. He estimates another

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500 persons working in the industry in traditionally non-union positions such as management, perhaps 150 of which are those working in what he terms as the "underground economy." Those workers are not being paid in accordance with applicable labor laws, and Local 665's previous efforts to call for law enforcement action on behalf of these works have been unsuccessful. Mr. Gleason believes that by making the existing Police Code provisions applying to private parking operators more rigorous, it will discourage unscrupulous operators from continuing to operate in this fashion.

Public comment was closed.

Motion: Commissioner Dwight motioned to recommend approval of the legislation as drafted.

2nd: Commissioner Dooley

Aye: Adams, Dooley, Dwight, Yee Riley, and White

Nav: None

Absent: Ortiz-Cartagena

7. Presentation on implementation of the Gross Receipts Tax and ongoing education and outreach activities by the Office of Treasurer and Tax Collector. (Discussion Item)

Explanatory Documents: <u>Gross Receipts Tax General Presentation</u>; <u>Outreach Presentation</u>; <u>Outreach Event Schedule</u>

Greg Kato, Office of the Treasurer and Tax Collector, and Marianne Thompson of Barbary Coast Consulting, presented. Mr. Kato provided an overview of the significant provisions of the Gross Receipts Tax, emphasizing that all business registration fees will increase at the next renewal and again in 2015, and the small business exemption available in the payroll expense tax will continue in a similar form in the gross receipts tax. Ms. Thompson focused on marketing and outreach activities she and Mr. Kato have already completed and will undertake in the coming months. She emphasized that outreach has been front-loaded to remain well ahead of business registration fee changes. There will be numerous outreach activities over the coming months, and the primary gross receipts tax information site is now available online at http://www.sfbiztax.org. The site contains a calendar of upcoming outreach events.

Several commissioners asked questions of Mr. Kato and Ms. Thompson:

Commissioner White thanked Mr. Kato and Ms. Thompson for their efforts, remarking that it is the best outreach she has experienced by the City thus far. She asked whether these outreach activities could continue with some sort of integration with Small Business Week in May. Ms. Thompson confirmed that integration is planned during the week's events.

Commissioner Yee Riley asked whether the outreach materials available now have been translated into Chinese and Spanish. Ms. Thompson confirmed the Business 1-2-3-4 flyer has already been translated into Chinese and Spanish, and the library flyer is in the process of being translated into both languages. Various outreach events will also be conducted in Chinese and Spanish.

Public Comment was called for and no members of the public requested to speak.

No formal action was taken.

 Election of Officers – Small Business Commission President: In accordance with the Commission's Rules of Order, Article II, Section 3, an election of the President must occur at the regular meeting of the Commission in January of each year. The President shall serve a term of one year, and shall be elected upon a vote of the Commission. (Action Item)

Acting Commission Secretary Murdock announced Items 8 and 9 and provided the commissioners with procedural instructions applicable to both.

Commissioner Yee Riley nominated Commissioner Adams for the office of President of the Small Business

Commission, and the nomination was seconded by Commissioner Dwight. No other nominations were made.

Commissioner Adams made a statement thanking the commissioners for the nomination and commending his fellow commissioners for their efforts assisting small businesses in the city. No other commissioner comments were made.

Public Comment was called for and no members of the public requested to speak.

Roll call vote on the following motions to nominate:

Motion: Commissioner Yee Riley nominated Commissioner Adams.

2nd: Commissioner Dwight

Aye: Adams, Dooley, Dwight, Yee Riley, and White

Nav: None

Absent: Ortiz-Cartagena

By a vote of 5-0, having exceeded the minimum threshold of four votes, Commissioner Adams was elected as President of the Small Business Commission for a 12-month term ending in January 2015.

Election of Officers – Small Business Commission Vice President: In accordance with the Commission's
Rules of Order, Article II, Section 3, an election of the Vice President must occur at the regular meeting of the
Commission in January of each year. The Vice President shall serve a term of one year, and shall be elected
upon a vote of the Commission. (Action Item)

Acting Commission Secretary Murdock announced Items 8 and 9 and provided the commissioners with procedural instructions applicable to both.

Commissioner Adams nominated Commissioner White for the office of Vice President of the Small Business Commission, and the nomination was seconded by Commissioner Dwight. No other nominations were made.

Commissioner White made a statement thanking the commissioners for the opportunity to serve another term as Vice President, mentioning her enjoyment with the Commission's work and stating that she looks forward to continuing her representation of small businesses. No other commissioner comments were made.

Public Comment was called for and no members of the public requested to speak.

Roll call vote on the following motions to nominate:

Motion: Commissioner Adams nominated Commissioner White.

2nd: Commissioner Dwight

Aye: Adams, Dooley, Dwight, Yee Riley, and White

Nay: None

Absent: Ortiz-Cartagena

By a vote of 5-0, having exceeded the minimum threshold of four votes, Commissioner White was elected as Vice President of the Small Business Commission for a 12-month term ending in January 2015.

10. Director's Report. (Discussion Item)

Director Dick-Endrizzi congratulated Commissioner Adams on his election to a third term as President and Commissioner White to a second term as Vice President. She then delivered a written and verbal Director's report. Director Dick-Endrizzi referenced Mayor Lee's recent State of the City address and highlighed a few business-specific topics, including his support for continuing small business disability access improvement programs, small business lending programs, and support for the online business portal. Director Dick-Endrizzi announced the Office of Economic and Workforce Development's selection as the Northern California Small

Business Development Center (SBDC) Lead Center, which the Commission voted to endorse on December 9, 2013. She provided a variety of other updates, including on upcoming efforts related to Mobile Retail and Services (MRS) and the Planning Department's formula retail study.

Commissioner Adams commended Sophie Hayward of the Planning Department for her hard work and successful ongoing outreach efforts related to the formula retail study.

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Commissioner Yee Riley announced the coming Friday as Chinese New Year, Year of the Horse.

14. General Public Comment. (Discussion Item)

Public Comment was called for and no members of the public requested to speak.

15. New Business. (Discussion Item)

Commissioner Adams requested a future presentation about expanding merchant corridor involvement in graffiti abatement.

Commissioner Dooley referenced a perception by some at the recent formula retail working group meeting that small businesses do not equitably hire minorities. She requested expert presenters at a future meeting to discuss this perception and potential strategies to improve minority hiring.

16. Adjournment. (Action Item)

Motion: Commissioner Dwight motioned to adjourn.

2nd: Commissioner Yee Riley

Aye: Adams, Dooley, Dwight, Yee Riley, and White

Nay: None

Absent: Ortiz-Cartagena

The meeting was adjourned at 3:48 PM.

BOS File No: 131205

Title: Planning Code - Production, Distribution, and Repair Zoning

Legislation Overview:

Ordinance amending the Planning Code to address various revisions to Production, Distribution, and Repair (PDR), integrated PDR, and small enterprise workplace zoning controls to facilitate the establishment of such uses; amending the Administrative Code to delete requirements concerning reporting on integrated PDR, affirming the Planning Department's California Environmental Quality Act determination; and making Planning Code, Section 302, findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Sponsor(s): Mayor, Cohen, Campos, Chiu

Date Introduced: 12/17/2013

Date Referred: 1/6/2014

Scheduled for Planning Commission: 2/20/2014

Scheduled for BOS Committee: 2/24/2014

Key Ouestions:

- Is it possible to receive a map showing the PDR-1-D, PDR-1-G, and PDR-2 zoning districts? As well as a map of properties believed to be eligible under either or both the self-storage redevelopment or office/institutional provisions?
- 2) What is the key to the self-storage redevelopment incentive? Is something preventing self-storage facilities from redeveloping currently that this legislation would cure?
- 3) Section 204.3(d): Is the proportional allocation requirement for retail space all that much better than the current situation? It would seem more sensible to require a Zoning Administrator or Planning Commission floor plan approval to allow property owners and businesses more flexibility with their allocations. Some PDR businesses have large footprints but little need for retail space, or manufacture relatively small products not requiring large display areas. Conversely, some PDR uses may have small footprints but manufacture relatively large products. The proportional requirement seems unnecessarily rigid.
- 4) How many parcels exist at the less than 0.3 FAR within the eligible areas?
- 5) Section 219.1(d)(2), p. 10, line 20: In addition to a Notice of Special Restriction (NSR), should there also be covenants or other restrictions recorded on the property related to noise, trucking, etc. (reference p. 10, lines 16-19) to protect against future claims by the non-PDR portion of a development against the PDR portion?
- 6) Why is the approach to self-storage redevelopment based on 1.0 FAR, but the approach to office and other institutional uses a fixed ratio of 1/3 gross floor area?

Staff Assessment:

The legislation as proposed is likely to be beneficial to small businesses and local employment. It includes several components that will preserve existing and encourage new PDR spaces in San Francisco. By providing land use incentives that translate into increased landowner profitability to entice private redevelopment of underperforming sites, the legislation puts a system in place to increase the likelihood of additional PDR space development in the coming years. While perhaps a radical shift from many

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Title: Planning Code - Production, Distribution, and Repair Zoning

years of strict prohibitions on office and institutional space within PDR zones, this legislation may still be too limited in its scope, and may not include enough parcels with its current eligibility criteria to bring about the actual development of new PDR space. Also, the provisions related to combined retail space for PDR uses at the same site seem to unduly limit business flexibility, and it is important to learn more about why proportionate allocation restrictions are necessary.

Description: OVERVIEW

The legislation seeks to support small- to mid-sized light industrial uses. The primary problem identified is a lack of sufficient spaces appropriate for such uses, which include unique San Francisco manufacturers, a sector which appears to be expanding within the city. Current land use policies have created an environment where many property owners find development of new PDR spaces less desirable when compared to other, potentially more profitable uses, or even when compared to leaving a property in an underdeveloped state. A secondary problem identified relates to the appropriateness or suitability of existing and future PDR spaces vis-à-vis marketing and sales of products (i.e. retail space). Current accessory use zoning restrictions limit retail space to 1/3 of the total floor area for each business, not per building. As a result, small PDR uses only have the option of undertaking development of a potentially expensive vet barely functional retail space that may measure only a few hundred souare feet.

The legislation attempts to address the main problem by allowing mixed PDR and non-PDR uses on the same property under certain circumstances. The approach has two prongs: a) allow self-storage spaces to be redeveloped to include the original storage use and a dedicated set aside for PDR; and, b) allow under-developed parcels to redevelop with a mix of office or certain institutional uses on the same parcel as PDR uses.

This legislation would amend the Planning Code in several ways to support retention and to incent development of production, distribution, and repair (PDR) facilities within the city. It would also delete references to obsolete Administrative Code and Planning Code requirements related to reporting and regulation of certain PDR uses (Design and Development Special Use District, and Restricted IPDR Special Use District).

While there is no precise Planning Code definition of "PDR," it generally involves the fabrication, testing, distribution, maintenance, or repair of physical goods.

The legislation's major elements are summarized as follows:

- Deletes Planning Code Section 175.8, eliminating the conditional use authorization requirement for integrated PDR (IPDR) uses that existed as of the effective date of Ordinance No. 298-08.
- 2) Adds subsection (j) to section 181, allowing the rebuilding of storage buildings for household goods within PDR-1-D, PDR-1-G, and PDR-2 zoning districts. Provided, however, that the rebuilt structure dedicates a minimum proportion of its floor area to PDR uses. The minimum requirement is 1.0 floor area ratio (FAR), which means an area dedicated to PDR that equals the lot size. For example, a rebuild of a self-storage facility on a 30,000 square foot lot would require a minimum of 30,000 square feet of PDR area. This will lead to the densification of any low-rise self-storage buildings rebuilt under this provision to allow them to achieve the minimum 1.0 FAR.
- 3) Adds a provision to subsection (d) of section 204.3 to allow the aggregation of retail floor area allocations for each PDR use into a single space larger in floor area than any single retail accessory use allocation. Typically, PDR uses are limited to retail space that is 1/3 of the combined PDR-retail space. For smaller PDR uses, it often proved economically infeasible to build their own retail spaces. The new provision requires the combined retail space to be allocated proportionally based on the floor area of each respective PDR use, and limits each PDR use to a space allocation no greater than what it would otherwise be allowed (which is 1/3 of its floor area).

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- 4) Adds a section 291.1 to create a new incentive to develop new PDR space in the PDR-1-D and PDR-1 G zoning districts, subject to a conditional use authorization. The incentive is limited to a specific geographic area and parcels with certain existing development characteristics, applying only to those parcels north of 20th Street that measure 20,000 square feet or larger and that are built at a density of less than 0.3 FAR. All such parcels exist south of Bryant Street and 7th Street.
 - a) Properties seeking to redevelopment in accordance with this incentive must provide PDR space measuring at least 1/3 of the total gross floor area developed on the parcel. The remaining proportion of the space may include Office (generally prohibited in PDR zones) or Other Institutions (restricted in size) uses. Other uses are allowed as permitted by the underlying zoning district, and residential uses are prohibited.
 - b) Certain other development standards apply, including requirements for freight elevators, offstreet loading, and minimum ceiling heights.
- 5) Makes various additions, deletions, and amendments to the use table in section 226, changing whether certain uses are permitted, conditionally permitted, or prohibited.
 - a) Of note, the standards for Small Enterprise Workspace (S.E.W.) in subsection (t) were amended to establish a maximum unit size of 1,500 square feet and to apply that standard to all units in an S.E.W. building. The previous regulations required 50% of the units to be no more than 500 square feet, with the remainder no more than 2,500 square feet. An exception to the new standards is ground floor space where each unit contains a PDR use, in which case units greater than 1,500 square feet are permitted.
- Deletes Design and Development Special Use District and IPDR Special Use District provisions in sections 249.35B and 249.29, respectively.
- 7) Amends IPDR provisions in section 890.49, applying a uniform standard of 1/3 gross floor area dedicated to PDR uses when integrated with other non-residential uses as part of a single business activity or enterprise.
 - a) Eliminates "multimedia, information technology, and software development functions" from the list of permissible uses within an IPDR site.
 - b) Restricts IPDR uses to either i) buildings constructed before 1951 and which were at least three stories in height as of January 1, 2009; or, ii) buildings for which a first certificate of occupancy was issued after January 1, 2009. This excludes one- or two-story buildings constructed prior to 1951 and all buildings constructed from 1951 to 2008.
 - c) Eliminates the requirement for property owners of IPDR sites to register and report to the Office of Economic and Workforce Development.

Redeveloped self-storage uses must provide PDR space equal to 1.0 floor area ratio (FAR), which equals the area of the underlying lot (i.e. 25,000 sq. ft of PDR on a 25,000 sq. ft lot). This provision would apply to PDR-1-D, PDR-1-G, and PDR-2 zoning districts.

Underdeveloped parcels eligible for a mix of office or institutional uses are those north of 20th Street within the PDR-1-D or PDR-1-G zones, with less than 0.3 FAR and measuring 20,000 sq. ft. or larger. For example, a 20,000 sq. ft. parcel at a qualifying location must have developed structures of 6,000 sq. ft. or less. For a 50,000 sq. ft. lot, developed floor area must be 15,000 sq. ft. or less. The incentive in this case is that profitable office and most institutional uses, which are generally prohibited within PDR zones, would be permitted subject to the above restrictions. Provided, however, that the space dedicated to PDR uses is at least 1/3 of the total gross floor area developed on the parcel. Non-PDR uses may also include any other permitted use within the underlying zoning district.

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To address the second identified problem, the legislation proposes to change regulations governing retail space accessory to PDR uses. Instead of a by-business allocation restricted to one's own area, the legislation would allow two or more PDR uses at a single site to combine their allocations into a single space. The joint space must be divided proportionally based on the size of each contributing PDR business, which still effectively limits each to the 1/3 of gross floor area maximum.

The legislation also makes a number of changes to the permitted, conditionally permitted, and prohibited use tables for various uses in PDR zones.

The legislation would become operative 30 days from enactment.

Departments/Organizations to Consult:

1) SFMade

 Contacted, and supportive of this proposal. It will benefit all of our community's industrial businesses - especially manufacturers, all of whom are small businesses in this city.

Legislation and Policy Committee Review:

Heard on January 27, 2014, and voted 2-0 to forward to full commission.

LEGISLATIVE DIGEST

[Planning Code - Production, Distribution, and Repair Zoning]

Ordinance amending the Planning Code to address various revisions to Production, Distribution, and Repair (PDR), integrated PDR, and small enterprise workplace zoning controls to facilitate the establishment of such uses; amending the Administrative Code to delete requirements concerning reporting on integrated PDR, affirming the Planning Department's California Environmental Quality Act determination; and making Planning Code, Section 302, findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

The Planning Code contains zoning controls that regulate PDR (production, distribution, and repair), Integrated PDR (PDR combined with other associated uses), and small enterprise workspace (SEW) uses in the Eastern Neighborhoods Plan Areas, which comprise portions of the southeastern part of San Francisco. The Administrative Code includes the Eastern Neighborhoods Plan Areas monitoring program that addresses various reporting and monitoring activities for these areas.

Amendments to Current Law

This Ordinance would amend the Planning Code to simplify the procedures related to establishment of PDR, IPDR, and SEW uses; allow PDR uses to share accessory retail space; and create PDR at specified self-storage uses. The legislation also would clarify the definition of PDR. The Ordinance would delete various Planning Code requirements related to these uses that are no longer necessary, including the Design and Development Special Use District and the Restricted IPDR Special Use District. The legislation would amend the Administrative Code to delete the IPDR reporting requirement. The Ordinance would affirm the Planning Department's environmental determination and adopt findings of consistency with the General Plan and Priority Policies of Planning Code Section 101.1.



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Distribution, and Repair (PDR), integrated PDR, and small enterprise workplace zoning
controls to facilitate the establishment of such uses; amending the Administrative
Code to delete requirements concerning reporting on integrated PDR, affirming the
Planning Department's California Environmental Quality Act determination; and making
Planning Code, Section 302, findings, and findings of consistency with the General
Plan, and the eight priority policies of Planning Code, Section 101.1.

[Planning Code - Production, Distribution, and Repair Zoning]

NOTE: Unchanged Code text and uncodified text are in plain Arial font.
Additions to Codes are in single-underline italics Times New Roman font.
Deletions to Codes are in sirikethrough italics Times New Roman font.
Board amendment additions are in gouble-underlined Arial font.
Board amendment deletions are in strikethrough Arial font.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

17 Section 1. Findings.

(a) In 2008, the Board of Supervisors adopted the Eastern Neighborhoods Plan and related zoning, in part to refine the City's approach to PDR (production, distribution, and repair) uses and to preserve and encourage such uses in the southeastern neighborhoods of the City. This legislative package is comprised of Ordinance Nos. 297-08, 298-08, and 299-08, copies of which are on file with the Clerk of the Board of Supervisors in File Nos. 081152, 081153, and 081154 respectively, and incorporated herein by reference. Since the adoption of this Plan and its associated zoning, the City has determined that the continued

establishment, evolution, and adaptation of these uses demands a more responsive set of zoning controls in the Planning Code. (b) The amended zoning controls in this legislation attempt to satisfy the following goals: (1) Make it easier to establish PDR as a principally permitted use; (2) Allow PDR uses to share accessory retail space; (3) Simplify the "Integrated PDR" (IPDR) controls; (4) Entice the development of PDR on underdeveloped parcels in PDR Districts; (5) Support creation of new PDR space in re-built non-conforming self-storage uses; (6) Make "Small Enterprise Workspace" (SEW) to be more attractive to build: (7) Remove the Design and Development Special Use District; and (8) Clean up the definition of PDR. (c) The Planning Department has determined that the actions contemplated in this Ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). The Board of Supervisors hereby affirms this determination. A copy of said determination is on file with the Clerk of the Board of Supervisors in File No. and incorporated herein by reference. (d) Pursuant to Planning Code Section 302, the Board finds that the proposed ordinance will serve the public necessity, convenience and welfare for the reasons set forth in Planning Commission Resolution No. , which reasons are incorporated herein by reference as though fully set forth. A copy of Planning Commission Resolution No. on file with the Clerk of the Board of Supervisors in File No. (e) At a duly noticed public hearing held on , 2014, the Planning Commission in Resolution No. found that the proposed Planning Code amendments contained in this ordinance are consistent with the City's General Plan and with the Priority Policies of Planning Code Section 101.1. The Commission recommended that the Board of Supervisors adopt the proposed Planning Code amendments. The Board finds that the proposed Planning Code amendments contained in this ordinance are consistent with the

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City's General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set forth in said Resolution

Section 2. The Planning Code is hereby amended by deleting Sections 175.8, 249.35B, 249.39, 413.7, 428A, revising Sections 181, 204.3, 226, 227, and 890.49, and adding Section 219.1, to read as follows:

SEC. 175.8. SUNSET FOR INTEGRATED PDR USES.

Any Integrated PDR use (as defined in Sec. 890.49) permitted by this Code will require conditional use authorization five years after the effective date of Ordinance Number 298-08 in order to allow for greater scrutiny of Integrated PDR uses in light of the City's Enterprise Zone Payroll Tax Credit program, The Planning Commission and Board of Supervisors should consider revising this control to continue permitting Integrated PDR uses if data show that 25 percent of all employees in areas Integrated PDR uses are eligible for the City's Enterprise Zone Payroll Tax Credit.

SEC. 181. NONCONFORMING USES: ENLARGEMENTS, ALTERATIONS AND RECONSTRUCTION.

- (a) A nonconforming use, and any structure occupied by such use, shall not be enlarged, intensified, extended, or moved to another location, with the exception of the construction of a mezzanine within a live/work unit and expansion of dwelling units in PDR Districts, unless the result will be elimination of the nonconforming use, except as provided in Paragraph (b)(3) and (i) below and Section 186.1 of this Code. A nonconforming use shall not be extended to occupy additional space in a structure, or additional land outside a structure. or space in another structure, or to displace any other use, except as provided in Sections 182 and 186.1 of this Code.
- (b) A structure occupied by a nonconforming use shall not be constructed. reconstructed or altered, unless the result will be elimination of the nonconforming use, except

- (1) Ordinary maintenance and minor repairs shall be permitted where necessary to keep the structure in sound condition, as well as minor alterations, where such work is limited to replacement of existing materials with similar materials placed in a similar manner.
- (2) Minor alterations shall be permitted where ordered by an appropriate public official to correct immediate hazards to health or safety, or to carry out newly enacted retroactive requirements essential to health or safety.
- (3) Alterations otherwise allowed by this Code shall be permitted for any portion of the structure that will not thereafter be occupied by the nonconforming use, provided the nonconforming use is not enlarged, intensified, extended, or moved to another location.
- (4) All other alterations of a structural nature shall be permitted only to the extent that the aggregate total cost of such other structural alterations, as estimated by the Department of Public Works, is less than ½ of the assessed valuation of the improvements prior to the first such alteration, except that structural alterations required to reinforce the structure to meet the standards for seismic loads and forces of the Building Code shall be permitted without regard to cost
- (c) A dwelling or other housing structure exceeding the permitted density of dwelling units or other housing units set forth in Sections 207.5, 208, 209.1, 209.2, or 215 of this Code for the district in which it is located shall be classified as a nonconforming use under Section 180 of this Code, but only to the extent that such dwelling or other housing structure exceeds the permitted density. This Section 181 shall apply with respect to enlargements, alterations and reconstruction of the nonconforming portion of such dwelling or other housing structure, consisting of those dwelling units or other housing units which exceed the permitted density. Any dwelling unit or other housing unit coming within the density limit shall not be affected by

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this Section 181. Except as provided in Sections 181(h) and 182(e), no dwelling or other housing structure exceeding the permitted density of dwelling units or other housing units shall be altered to increase the number of dwelling units or other housing units therein, or to increase or create any other nonconformity with respect to the dwelling unit or other housing unit density limitations of Section 209.1 or Section 209.2.

(d) Notwithstanding the foregoing provisions of this Section 181, a structure occupied by a nonconforming use that is damaged or destroyed by fire, or other calamity, or by Act of God, or by the public enemy, may be restored to its former condition and use; provided that such restoration is permitted by the Building Code, and is started within eighteen months and diligently prosecuted to completion. The age of such a structure for the purposes of Sections 184 and 185 shall nevertheless be computed from the date of the original construction of the structure. Except as provided in Subsection (e) below, no structure occupied by a nonconforming use that is voluntarily razed or required by law to be razed by the owner thereof may thereafter be restored except in full conformity with the use limitations of this Code.

For purposes of this Subsection (d), "started within eighteen months" shall mean that within eighteen months of the fire or other calamity or Act of God, the structure's owner shall have filed a building permit application to restore the structure to its former condition and use.

(e) In order that major life safety hazards in structures may be eliminated as expeditiously as possible, a structure containing nonconforming uses and constructed of unreinforced masonry that is inconsistent with the requirements of the UMB Seismic Retrofit Ordinance, Ordinance No. 227-92, may be demolished and reconstructed with the same nonconforming use or a use as permitted by Planning Code Section 182; provided that there is no increase in any nonconformity, or any new nonconformity, with respect to the use limitations of this Code; provided further that the current requirements of the Building Code,

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the Housing Code and other applicable portions of the Municipal Code are met; and provided further that such restoration or reconstruction is started within one year after razing or other demolition work on the structure and diligently prosecuted to completion.

- (f) A nighttime entertainment use within the RSD, MUG, MUR, or SLR Districts may be enlarged, intensified, extended or expanded, including the expansion to an adjacent lot or lots, provided that: (1) the enlargement, intensification, extension or expansion is approved as a conditional use pursuant to Sections 303 and 316 of this Code; (2) the use as a whole meets the parking and signage requirements, floor area ratio limit, height and bulk limit, and all other requirements of this Code which would apply if the use were a permitted one; and (3) the provisions of Section 803.5(b) of this Code are satisfied.
- (g) Automotive sales and service signs within the Automotive Special Use District which have all required permits but which do not comply with the controls for new signs established in Section 607.3 of this Code shall be permitted to remain as nonconforming uses and shall be permitted to modify the signage text to describe new automobile ownerships and dealerships that may occur from time to time.
- (h) In PDR Districts, no building containing a residential use shall be altered to increase the number of dwelling units or other housing units therein. However, individual dwelling units or other housing units may be expanded, subject to height, bulk, and all other provisions of this Code which would otherwise be applicable to dwelling units or other housing units in the Urban Mixed Use District.
- (i) In the Eastern Neighborhoods Mixed Use, PDR-1-D, and PDR-1-G Districts, a nonresidential nonconforming use may expand in gross floor area by no more than 25 percent with conditional use authorization pursuant to Section 303 of this Code. Such conditional use authorization may not be granted for any subsequent or additional expansion beyond the initial 25 percent.

SEC, 204.3. ACCESSORY USES IN C, M, AND PDR DISTRICTS.

- (a) No use shall be permitted as an accessory use to a lawful principal or conditional use in any C-1 or C-2 District which involves or requires any of the following:
- (1) The total employment for such accessory use of more than five persons in a C-1 District, or more than 10 persons in a C-2 District:
- (2) The use of any single machine of more than one horsepower in a C-1 District, or more than 21/2 horsepower in a C-2 District:
- (3) The use of machines in any one establishment in an aggregate of more than five horsepower in a C-1 District, or more than 10 horsepower in a C-2 District;
- (4) The use of more than 1/4 of the total floor area occupied by such use and the principal or conditional use to which it is accessory, except in the case of accessory off-street parking or loading; or
- (5) The production of goods not intended primarily for retail sale or use on the premises.
- (b) No use shall be permitted as an accessory use to a lawful principal or conditional use in any C-3 District which involves or requires the use of any single machine of more than five horsepower; or the use of more than ¼ of the total floor area occupied by such use and the principal or conditional use to which it is accessory, except in the case of accessory offstreet parking and loading. These limitations shall not apply to equipment or machines pertaining integrally to the lawful principal use itself.

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(d) No use shall be permitted as an accessory use to a lawful principal or conditional use in any PDR District which involves or requires the use of more than one-third (1/3) of the total floor area occupied by such use and the principal or conditional use to which it is accessory, except in the case of accessory retail, off-street parking, and loading. For accessory retail, multiple PDR uses within a single building may combine their accessory retail allotment into a single space, as long as the shared retail space is allocated proportionally to the size of each contributing PDR use, and the total allotment of accessory retail space per use does not exceed what otherwise would be permitted by this Section.

<u>SEC. 219.1. ALLOWANCE FOR USES TO SUPPORT THE DEVELOPMENT OF NEW PDR SPACE IN THE PDR-1-D AND PDR-1-G DISTRICTS</u>.

(a) Purpose. The purpose of this provision is to support the increase in the overall stock of PDR space in the City. Despite consistent and growing demand for PDR space in San Francisco, the economics of building new PDR space are very challenging, even in PDR zoning districts where these uses do not compete for land with other more economically-attractive uses. One way to make such development economically viable is to utilize the value of other non-residential space, such as office and institutional uses, to subsidize the construction of PDR space on properties that are largely vacant or substantially underutilized and that do not contain significant PDR space that would be demolished.

(b) Geography. This provision applies to parcels that meet all of the following criteria:

1	(1) Are located in either the PDR-1-D or PDR-1-G Districts;
2	(2) Are located north of 20th Street;
3	(3) Contain less than 0.3 gross floor area as of the date of this legislation; and
4	(4) Are 20,000 square feet or larger.
5	(c) Controls. The Planning Commission may permit, per the procedures described below in
6	Subsection (d), non-PDR uses on the subject lot pursuant to the following provisions:
7	(1) At least 1/3 of the total gross floor area developed on the parcel shall contain PDR uses, as
8	defined in Section 401.
9	(2) For purposes of this Subsection, every square foot of Integrated PDR, as defined in Section
10	890.4, or Small Enterprise Workspace, as defined in Section 227(t), shall count as 0.5 square feet of
11	PDR space and 0.5 square feet of non-PDR space as specified in Subsection (3) below.
12	(3) The non-PDR space may contain one or both of the following uses:
13	(A) Office, as defined in Section 890.70; and/or
14	(B) Institutions, Other, as defined in Section 890.50.
15	(4) Uses other than those listed in Subsections (2) and (3) above, such as retail, are subject to
16	the controls of the underlying district.
17	(5) No residential uses are permitted.
18	(6) The PDR space in any building must be served by:
19	(A) One or more freight elevators, for any PDR space not at street level;
20	(B) Off-street loading in accordance with Code Section 152; and
21	(C) Minimum ceiling heights of seventeen feet floor-to-floor on the ground floor, and
22	fourteen feet floor-to-floor on the second floor and above.
23	(7) The project shall meet the Transportation Management Program requirements of Section
24	163(c) of the Planning Code.
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1	(8) Accessory parking for uses listed in subsection (2) above may be permitted up to one space
2	per each 1,500 square feet of occupied floor area, and all such parking shall be subject to the pricing
3	requirements of Section 155(g).
4	(9) The first Certificate of Occupancy for the PDR portion of the development must be issued
5	by the Department of Building Inspection before and concurrently with the first Certificate of
6	Occupancy for the non-PDR portion of the development unless the PDR and non-PDR portions are
7	part of a single site or building permit.
8	(d) Approvals.
9	(1) All projects seeking entitlement pursuant to this Section 219.1 shall be required to receive a
10	Conditional Use authorization, per Section 303 of the Planning Code. In evaluating a proposed
11	authorization under this Section, the Planning Commission shall consider:
12	(A) The likely viability of the new PDR space created by the development, as influenced
13	by such factors as whether the project sponsor has developed a PDR business plan, has the
14	commitments of established PDR tenants, and/or a demonstrated relationship with organizations
15	established in the PDR community.
16	(B) Whether the project is an appropriate location and intensity for the proposed non-
17	PDR use, including but not limited to whether the location of non-PDR uses would be compatible with
18	or disruptive to PDR uses on the site and in the vicinity, recognizing that PDR uses may generate noise,
19	vibrations, odors, trucking activity, or other PDR-related operational characteristics.
20	(2) A Notice of Special Restriction ("NSR") shall be recorded on the title of any property
21	receiving approval under this Section 291.1. Such NSR shall:
22	(A) Designate the PDR portion of parcel;
23	(B) State that the proportion of gross floor area on the site dedicated to PDR uses shall
24	never be less than 1/3 of the total gross floor area on the parcel, including any future building or use
25	alterations or expansions;

1	(C) Require the property owner to submit an annual report to the Planning Department,
2	on January 31 of each year, detailing the PDR tenants on the property for the prior year their
3	respective square footages, number of employees, contact information for each company, a description
4	of the business or industry characteristics of each business, and the PDR space vacancy on the parcel
5	as of the date of each report; and
6	(D) Provide the Planning Department with the ability to enforce the provisions of this Section.

SEC. 226. MANUFACTURING AND PROCESSING.

SEC 226 MANUEACTURING AND DROCESSING

8	SE			ANUF					OCE						
9	C-1	C-2		C-3- O(SD)			C-3- S	с-м	M-1	M-2	PDR -1-G		PDR- 1-B	PDR- 2	
10				-(/		-									SEC. 226. MANUFACTURING
11															AND PROCESSING.
12															(a) Light manufacturing uses,
13															involving only the assembly, packaging,
14													P		repairing or processing of
15			Р	Р	Р	Р	Р	Р	NA	NA	Р	Р	under 5,000	Р	previously prepared
16													gsf		materials, which are conducted within a
17															building but do not occupy the ground
18															story of any building; provided:
19		1													(1) That no part
20															of a building so occupied shall have
21							1								any opening, other than fixed windows
22															and exits required by law, within 50 feet of
23					_		_	_							any R District;
24															(2) That the mechanical
25		l		l					L	<u> </u>			L	<u></u>	equipment required

1													for such uses, together with related
2													floor space used
3													primarily by the operators of such
4													equipment, shall not in the aggregate
5													occupy more than 1/4
6													of the gross floor area of the building in
7													which the uses are located; and
8													(3) That no machine shall be
9													used that has more
10													than five horsepower capacity.
11													(b) Light
12													manufacturing which occupies not more
13													than ½ the ground story of the building
													and involves or
14													requires no machine that has more than
15											P under		five horsepower capacity, if
16					Р	Р	NA	NA	Р	Р		Р	conducted entirely
17				1							5,000 gsf		within an enclosed building; provided,
18													that no part of a
19													building so occupied shall have any
20													opening, other than fixed windows and
21													exits required by law,
22													within 20 feet of any R District.
23		i									Ρ.		(c) Light food- processing for
24					Р	Р	NA	NA	Р	Р	under 5,000	Р	delicatessen, catering or restaurant
25				L.							gsf		supply, if conducted

															T. 10 10 10 10 10 10 10 10 10 10 10 10 10
1															entirely within an enclosed building;
2															provided, that no part of a building so
3															occupied shall have any opening, other
4															than fixed windows
5															or exits required by law, within 20 feet of
6						ļ	_	-	<u> </u>	-	<u> </u>				any R District.
7													Р		(d) Light manufacturing, not
8									Р	Р	Р	Р	under 5,000	Р	including any use first specifically listed
9						_		_					gsf		below.
10													P under		(e) Industrial or chemical research or
11			₽	₽	₽	₽	₽	₽	₽	₽	₽	₽	2,500	₽	testing laboratory, not involving any danger of
12													gsf		explosions.
					1										(f) Life Science laboratory (as defined
13			₽	₽	₽	₽	₽	₽	₽	₽					in Sections 890.52 and
14							-	-	-	-	-		-		890.53).
15															-(g) Battery manufacture, if
16								₽	₽	₽				E	conducted on premises not less than 200 feet
17	<u></u> .														from any R District.
18															(h) Any of the following uses, when
19															conducted within a completely enclosed
20															building; provided, that no part of a
21									₽	₽	ϵ	ϵ		E	building so occupied
22															shall have any opening, other than
23															fixed windows or
24															exits required by law, within 50 feet of any
25		-	ļ		-	-	-		P	P	C	0		D	R District:
23	L_				_	_			P	P	<u>C</u>	<u>C</u>		P	(1) Automobile

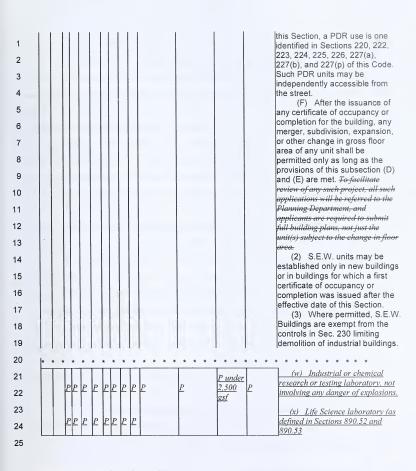
1		\vdash		-				\vdash			assembling. (2) Bottling
2											plant, brewery, dairy
3				'		<u>P</u>	<u>P</u>	<u>C</u>	<u>P</u>	<u>P</u>	products plant, malt manufacturing or
4											processing or malt
5				\vdash		n	n	<i>a</i>	a	<i>a</i>	products plant; (3) Ice
				<u> </u>		 <u>P</u>	<u>P</u>	C	<u>C</u>	 <u>C</u>	manufacturing plant;
6						<u>P</u>	<u>P</u>	C	<u>C</u>	<u>C</u>	(4) Concrete mixing, concrete
7						 <u> </u>					products manufacture;
8						P	P	C	<u>C</u>	<u>C</u>	(5) Electric foundry or foundry for
9							_	<u> </u>			nonferrous metals;
10											(6) Metal working or
11											blacksmith shop; excluding presses of
12						<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	over 20 tons'
13											capacity and machine-operated
											drophammers.
14											(7) Enameling, lacquering,
15											wholesale paint
16						<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>	mixing from previously prepared
17											pigments and
18		_		_							vehicles; (8)
19					-						Woodworking mill,
20						P	P	C	C	C	manufacture of wood-fibre, sawdust
						-	_			_	or excelsior products
21											not involving chemical processing.
22											(i) <u>Curing</u>
23									- n		smoking, or drying fish; Mmanufacture of
24							Р	С	<u>C_P</u>	<u>C-P</u>	cereals, distilled
25											liquors, felt or shoddy, hair or hair
		 	 			 				 	J 71

														1
1														products, pickles, sauerkraut, vinegar, yeast, soda or soda
2														compounds, structural clay
4														products, meat
														products, <u>fish oil</u> , not including any use
5									Ì					first specifically listed below.
6								-	P	С	С		С	(j) Flour mill.
7									Р	С	С		С	(k) Sugar refinery.
8	-					-			P	С	c		С	(I) Wool pulling or
9									F		-		ļ	scouring (m) Blast furnace,
10									С	С	С		С	rolling mill, smelter.
11														(n) Manufacture of corrosive acid or
12														alkali, cement,
13									C				С	gypsum, lime, plaster of paris, explosive,
14														fertilizer, glue or gelatine from fish or
15								_	_					animal refuse.
16									С	С			С	(o) Production or refining of petroleum
		<u> </u>	ļ	<u> </u>		_		_	1	-	-	ļ	_	products.
17								Р	Р	С			С	(p) Steam power plant.
18									Р				С	(q) Shipyard.
19														(r) Live storage, killing or dressing of
20														poultry or rabbits for retail sale on the
21							Р	Р	NA				С	premises, if
22														conducted on premises not less
23														than 200 feet from
24	-			-	-					-		-	-	any R District. (s) Live storage,
25									Р				С	killing or dressing of poultry or rabbits, if
				 			1	-L						_pountry of faubits, if

	 				 	_		 		
1										conducted on premises not less
2										than 200 feet from
3										any R District, without limitation as
4						-				to nature of sale.
5						С				(t) Stockyard, livestock feed yard,
	•	-			 _		-			abattoir. (u) Rendering or
6										reduction of fat,
7					-					bones or other animal material,
8										where adequate
9					С	С	С		С	provision is made for the control of odors
10										through the use of
11										surface condensers and direct-flame
12										afterburners or
13										equivalent equipment.
										(v) Incineration of
14						С				garbage, refuse, dead animals or
15										parts thereof.
16										(w) The following uses, when
17						Р			С	conducted not less
18										than 500 feet from any R or NC District:
19										(1)
20										Manufacture, refining, distillation or
21										treatment of any of the following:
										abrasives, acid
22										(noncorrosive), alcohol, ammonia,
23										asbestos, asphalt,
24										bleaching powder, candles (from tallow),
25										celluloid, chlorine,

1															coal, coke, creosote, dextrine, disinfectant,
2															dye, enamel, gas carbon or lampblack,
3															gas (acetylene or other inflammable),
4															glucose, insecticide,
5															lacquer, linoleum, matches, oilcloth, oil
6															paint, paper (or pulp), perfume, plastics,
7															poison, potash,
8															printing ink, refuse mash or refuse grain,
9															rubber (including balata or gutta
10															percha or crude or
11															scrap rubber), shellac, shoe or
12															stove polish, soap, starch, tar,
13														-	turpentine, varnish;
14				-											smoking or drying fish,
15							-		-		-			-	manufacture of fish oil; (32) Tanning or
16															curing of raw hides or skins;
17	-							-		_	\vdash	 			(4 <u>3</u>) Foundry,
18															structural iron or pipe works, boilermaking
19															where riveting is
20															involved, locomotive works, roundhouse
21		<u></u>		L			1						ļ		or railroad shop.
22															
23		S	EC.	227. O	THE	R US	ES.								
24	*	* *	* *	* * *	* *	* *	* *	* *	* *	* *	* *	* *	* *	* *	* * * * *
24															

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C-1	C-5	8:3-6	C-3-R	C-3-G	C-3-S	ر- د-⊠	M-1	M-2		PDR-1- G		PDR-1- D	PDR-1- B	PDR-2	-
ZA	ZA	Z A	ZA	RA	N A	NA	NA	ZA	P		P		NP	NPP_	(t) Small Enterprise Workspace (S.E.W.). An S.E.W. is a single building use that is comprised of discrete workspace units which are independently accessed from building common areas. (1) The S.E.W. building must meet the following additional requirements: (A) Each unit may contain only uses principally or conditionally permitted in the subject zoning district, or office uses (as defined in Section 890.70); (B) Any retail uses are subject to any per parcel size controls of the subject zoning district; (C) No residential uses shall be permitted; (D) Fifty percent of the units in the building must contain no more than 300 gross square feet each; while the remaining fifty percent fach of the units in the building must contain no more than 2,500 gross square feet each; an exception to this rule applies for larger PDR spaces on the ground floor, as described in subsection (E) below (E) An S.E.W. building may contain units larger than 2,500 floor as long as each such unit contains a principal PDR use. For the purposes of



In recognition of existing large parcels where a limitation on office square footage per lot

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would be proportionally inappropriate, to accommodate office space for activities that require space outside of downtown, to provide affordable office space to small firms and organizations which may be engaged in incubator businesses and microenterprises, and to accommodate office space in relation to the agglomeration of internal, telecommunications and related utility uses in the immediate area, there shall be a Design and Development Special Use District applied to certain portions of the South Basin area west of Third Street, and to parcels on Third Street near the intersections of Cargo Way, Custer Avenue, Davidson Avenue, Evans Avenue, and Egbert Avenue, as shown on Sectional Map 10 SU of the Zoning Map. The following provisions shall apply within such special use district: (a) Except as described below, the specific use definitions and controls for PDR-1 and PDR-2

Districts, as detailed in Sections 213-277 of this Code, shall apply to lots within this Design and Development SUD, including the accessory use provisions contained in Section 204.3. (b) Any office use is permitted, limited to a floor area ratio of 0.25 of gross floor area to 1

square foot of lot area notwithstanding the office use size limitations of the PDR-2 District. In no case shall office use be limited to less than the size allowed in a PDR 2 District under Planning Code Section 219; nor shall it exceed a total of 50,000 square feet of gross floor area per lot.

(c) An office use above the amount permitted in Section 249.35B(b) is permitted provided that it shall be limited to the following activities:

(1) design activities, including but not limited to architectural, graphic, interior, product, and industrial design:

(2) business service as defined in Planning Code Section 890.111;

(3) ancillary office activities related to internet, telecommunications, electronic networking or data storage service and maintenance;

1	(4) digital media and arts.
2	(d) For all office use square footage greater than the amount permitted under 249.35B(b), a
3	Notice of Special Restriction shall be executed by the Zoning Administrator and recorded in the Office
4	of the County Recorder, specifying that the office activities are limited to the uses permitted under
5	Planning Code Section 249.35B(c).
6	(e) For all office use square footage greater than the amount permitted under 249.35B(b),
7	each individual business shall be limited to 5,000 square feet of gross floor area.
8	(f) Off street parking spaces shall be provided in the minimum amounts as follows:

(1) for office uses permitted under Section 249.35B(b), according to Table 151 of this Code:

(2) for office uses permitted under Section 249.35B(c), 1 space for every 2,500 square feet of occupied floor area.

SEC. 249.39. RESTRICTED INTEGRATED PDR SPECIAL USE DISTRICT.

(a) Purpose. The Restricted Integrated PDR Special Use District is intended to ensure that newly constructed Integrated PDR uses support the intention of the PDR-1-G District in the Central Waterfront.

- (b) Geography. The boundaries of the Restricted Integrated PDR Special Use District include all parcels designated PDR-1-G east of I-280, south of 20th St., and north of Cesar Chavez St.
- (c) Controls. All provisions of the Planning Code currently applicable shall continue to apply: except that newly constructed Integrated PDR shall require conditional use authorization pursuant to the provisions of Sec. 303.

SEC. 413.7. INTEGRATED PDR EXCEPTION.

An exception to this process exists for Integrated PDR projects that are subject to Section 428 of this Code, for which only 50% of the fees must be paid before the issuance of the first construction document or first certificate of occupancy with a deferral surcharge, whichever applies,

SEC. 428A. INTEGRATED PDR FEE DISCOUNT PROGRAM.

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1	(a) Purpose. The purpose of the Integrated PDR Fee Discount Program is to encourage the
2	hiring of disadvantaged workers by existing or future business tenants and/or occupants in newly
3	permitted Integrated PDR space. Owners of buildings with Integrated PDR space are given the option
4	of deferring up to fifty percent of development impact fees that would otherwise be owed, to encourage
5	their Integrated PDR tenants and/or occupants to register their respective business with the Office of
6	Economic and Workforce Development's (OEWD) Integrated PDR Program. At the end of a five year
7	period commencing upon issuance of the first site or building permit, owners of Integrated PDR
8	buildings will be responsible for payment of the full deferred amount unless they can demonstrate to t
9	Planning Department, based on registration records submitted to OWED, that a certain percentage of
10	the employees occupying Integrated PDR space qualify as "disadvantaged workers." The greater the
11	percentage of disadvantaged workers, the higher the fee waiver.
12	(b) Definitions:
13	(1) Applicant. For purposes of this section, the owner of a building that contains permitted
14	Integrated PDR space.
15	(2) Integrated PDR. This is defined in Section 890.49.
16	(3)—Disadvantaged worker. Any employee who qualifies for the California State.
17	(4) Enterprise Zone hiring credit for the San Francisco Enterprise Zone.
18	(5)—Discount eligible worker, a disadvantaged worker who lives within the City and County &
19	San Francisco.
20	(6) Discount program fees. The fees that are subject to this discount program are the Eastern
21	Neighborhoods Fees (per Sec. 327), the Transit Impact Development Fee (TIDF) (per Chapter 38 of
22	the Administrative Code), and the Jobs Housing Linkage Fee (per Section 313).
23	(7) Integrated PDR Registration Record. A dated receipt acknowledging that the subject
24	Integrated PDR business has newly registered or updated their existing registration with the Office of
25	Economic and Workforce Development (OEWD).

1	(8) Outstanding Discount Program fees. The 50% of Discount program fees that are not paid
2	at the issuance of the first site or building permit.
3	(c) Controls.
4	(1) Any project involving the establishment of net new Integrated PDR space may choose to
5	avail itself of the fee discounts described below in this Subsection.
6	(2) Initial fee reduction and payment:
7	(A) At the issuance of the first site or building permit, the Applicant will pay 50% of
8	discount-program fees.
9	(B) An Integrated PDR Notice of Special Restrictions (NSR) will be placed on the
10	property stating the following:
11	——————————————————————————————————————
12	(ii) That the Outstanding Discount Program fees, adjusted for the cost of living as
13	defined by the Controller's Office, will be paid within 30 days of notification of the applicant by the
14	Planning Department of the amount of payment due. A reduction or waiver of these outstanding fees is
15	available only if the conditions of subsection (c)(3) of this Section are met.
16	(3) Outstanding Discount Program fee determination and payment:
17	(A) After five years from the issuance of the first site or building permit for any
18	Integrated PDR space, the Applicant must pay the Outstanding Discount-Program fees.
19	(B) An Applicant may seek to waive or reduce any Outstanding Discount Program fees
20	by providing sufficient evidence in the form of Integrated PDR Registration Records to demonstrate to
21	the Planning Department that they have satisfied the workforce goals of the Integrated PDR program
22	as of the date of the filing of an application for such a waiver.
23	(C) Outstanding Discount Program fees may be waived or forgiven under the following
24	circumstances:
25	

1	(i) -If 10% to 14.9% of the total workforce currently employed in space that is permitted
2	as Integrated PDR is discount-eligible workers, then 50% of the outstanding fees will be waived.
3	(ii) If 15% to 19.9% of the total workforce currently employed in space that is
4	permitted as Integrated PDR is discount-eligible workers, then 60% of the outstanding fees will be
5	waived:
6	——————————————————————————————————————
7	permitted as Integrated PDR is discount-eligible workers, then 70% of the outstanding fees will be
8	waived.
9	(iv) If 25% to 29.9% of the total workforce currently employed in space that is
10	permitted as Integrated PDR is discount-eligible workers, then 80% of the outstanding fees will be
11	waived.
12	(v) If 30% to 34.9% of the total workforce currently employed in space that is
13	permitted as Integrated PDR is discount-eligible workers, then 90% of the outstanding fees will be
14	waived.
15	(vi) If 35% or more of the total workforce currently employed in space that is permitted
16	as Integrated PDR is discount-eligible workers, then 100% of the outstanding fees will be waived.
17	(D) Applicants who cannot provide sufficient evidence in the form of Integrated PDR
18	Registration records to demonstrate to the Planning Department that tenants and/or occupants of any
19	Integrated PDR space have satisfied the annual reporting requirements of the Office of Economic and
20	Workforce Development (OEWD), or its successor, will not be eligible for any waivers or reductions of
21	Outstanding Discount Program Fees, and will owe the full amount of any Outstanding Discount-
22	Program Fees five years after the issuance of the first site or building permit. These annual reporting
23	requirements are stated contained in the City's Administrative Code Sec. 10E.7.
24	(E) Applicants must apply to the Planning Department for Outstanding Discount
25	Program Fee reduction or waiver. This application must be submitted within three months before or

after the five year anniversary of the issuance of the first site or building permit. The Planning	
Department shall transmit the application to the Office of Economic and Workforce Development	
(OEWD), or its successor, for verification of relevant employment statistics, and the Director of Ol	SWD
shall subsequently submit its findings to the Planning Department.	
(F) Payment of outstanding fees is due within 30 days of notification of the applica	int-b)
the Planning Department of the amount of payment due.	
(G) Failure to pay shall be deemed a violation of the Planning Code and result in	an
enforcement action by the Department, which may include, referral to the Bureau of Delinquent	
Revenue and a lien on the subject property. Any enforcement action also may result in additional	
charges or penalties to cover the City's costs in the enforcement action, including, but not limited to	O
City Attorney's fees.	
SEC. 890.49. INTEGRATED PDR.	
(a) Integrated PDR is a land use that meets the following requirements:	
(1) Contains at least the following amount of PDR activities:	
——————————————————————————————————————	ace
of the use shall contain PDR activities, as defined in Subsection (7) below; or	
(B) For uses of less than 2,000 gross square feet, at least 20% of the total space st	lall
contain PDR activities;	
(2) All uses in the space are conducted as integral and related parts of a single business	
activity or enterprise;	
(3) Does not include residential activities;	
(3 $\underline{4}$) The remaining <u>non-PDR</u> space may contain any non-residential use permitted	d in
the MUO District-as long as:	
(45) Retail space is limited to 1/3 of the total space; and	

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1	(B) All uses in the space are conducted as integral and related parts of a single
2	business activity or enterprise;
3	(6) Any retail space contained within the Integrated PDR use shall not count against any per
4	parcel retail limits of the subject zoning district; and
5	(4 7) For purposes of this definition, PDR activities are those that:
6	(A) Are generally consistent with Code Sections 220, 222, 223, 224, 225, 226,
7	227(a), 227(b), and 227(p) or involve the fabrication, testing, distribution, maintenance, or
8	repair of physical goods;
9	(B) Are not:
10	(i) Residential (as defined in Section 890.88);
11	(ii) Retail and personal services (as defined in Sections 890.102, 890.104, and
12	890.116);
13	(iii) Institutional (as defined in Section 890.50);
14	(iv) Office (as defined in Section 890.70);
15	(v) Laboratory (as defined in Section 890.52); or
16	(vi) Storage (as defined in Sec. 890.54(c));
17	(C) May include any non-office uses that integrate multimedia, information
18	technology, or software development functions;
19	——————————————————————————————————————
20	$(E \underline{D})$ Occur in space specifically designed to accommodate the industrial
21	nature of the PDR activities.
22	(5) Any retail space contained within the Integrated PDR use shall not count against any per-
23	parcel retail limits of the subject zoning district.
24	(b) Integrated PDR uses are subject to the following requirements only permitted in the
25	following buildings:

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(A) That Buildings that were constructed before 1951 which were at least three stories in height above grade, excluding those building features listed in Section 260(b) and related structures, as of the effective date of Ordinance Numbers 0297-08, 0298-08, 0299-08 and 0300-08 as of January 1, 2009; or

- (#2) For Building for which a first certificate of occupancy was issued after the effective date of Ordinance Numbers 0297-08, 0298-08, 0299-08, and 0300-08 after January 1. 2009;
- (2 c) A Notice of Special Restriction (NSR) shall be recorded on the title of any property containing an Integrated PDR use. The Planning Department shall forward a copy of each NSR to the Mayor's Office of Economic and Workforce Development, or a successor office, for purposes of record keeping and monitoring. This NSR shall include a copy of the use provisions of this Section and also require that the property owner:
- (A) Ensure that all new Integrated PDR tenants and/or occupants register with the Office of Economic and Workforce Development's PDR Program. The purpose of this registration is to confirm the accuracy of each tenant's or occupant's NAICS code on their Business Registration and Payroll Tax forms, collect basic information on the nature of each tenant's or occupant's business, including the total number of employees to inform the tenant or occupant of available tax credits and other benefits of the state and local Enterprise Zone program; and to determine, to the extent possible. the total number of employees that reside within the City and are eligible to receive State Enterprise Zone tax credits ("IPDR Disadvantaged Employees"); and
- (B) Report annually to the Planning Department staff on any reallocation of space within an Integrated PDR space This NSR shall provide the Planning Department with the ability to enforce the provisions of this Section.
- (e d) Integrated PDR uses are not subject to the annual office limit controls of Sections 320-324.

(2) Upon successful registration of a new Integrated PDR business, OEWD will provide each individual Integrated PDR business registrant with a dated receipt acknowledging that the subject Integrated PDR business has newly registered or updated their existing registration with OEWD. This receipt shall be referred to as an "Integrated PDR Registration Record" for purposes of this Section and Planning Code Section 328. If an Integrated PDR business failed to register for an Integrated PDR Registration Record as of December 31st of the subject year, the OEWD is prohibited from issuing a receipt for that year.

new occupants of any space that is permitted as Integrated PDR contact the Integrated PDR Program
of the Office of Economic and Workforce Development (OEWD), or its successor, to register their

respective Integrated PDR business with OEWD's Integrated PDR Program Database and that these

same businesses continually update OEWD's PDR Program Database on an annual basis.

(3) It is the responsibility of the owner of any property subject to an Integrated PDR NSR recorded pursuant to Planning Code Sections 328 to collect and retain copies of any Integrated PDR Registration Records obtained by any tenant or occupant in a property subject to this Section.

(4) Property owners who cannot provide sufficient evidence in the form of Integrated PDR

Registration Records to demonstrate to the Planning Department that current and former occupants of

any Integrated PDR space have satisfied the initial registration and annual reporting requirements outlined in this Section will not be eligible for any waivers or reductions of Outstanding Discount-Program Fees as set forth in Planning Code Section 328.

(3) OEWD, or its successor, shall make available summary reports of any and all Integrated PDR business data collected pursuant to this program at the request of the Planning Department staff or the Planning Commission, as necessary for their enforcement of any provisions of the Planning Code or for general information.

(6) OEWD, or its successor, shall provide a 5-year summary report on the status of employment of disadvantaged workers, as defined in Planning Code Section 328(b)(2) and the profile of all businesses registered under this program within 6 months of the 5-year anniversary of the adoption of this Section. This summary report shall contain data on the total number and types of businesses occupying Integrated PDR space, as well the total percentage share of the total workforce employed by businesses occupying Integrated PDR space that qualify as disadvantaged workers as of the 5-year anniversary of the effective date of this Section.

(e d) EASTERN NEIGHBORHOODS CITIZENS ADVISORY COMMITTEE.

(1) Establishment and Purpose. An Eastern Neighborhoods Citizens Advisory
Committee (CAC) is hereby established. Within 6 months of adoption of the Eastern
Neighborhoods Area Plan and related Planning Code changes, the Mayor and the Board of
Supervisors shall have appointed all members to the CAC. The CAC shall be the central
community advisory body charged with providing input to City agencies and decision makers
with regard to all activities related to implementation of the Eastern Neighborhoods Area
Plans. The CAC is established for the purposes of providing input on the prioritization of
Public Benefits, updating the Public Benefits program, relaying information to community
members in each of the four neighborhoods regarding the status of development proposals in
the Eastern Neighborhoods, and providing input to Plan Area monitoring efforts as

appropriate. The CAC shall be advisory, as appropriate, to the Planning Department, the
Interagency Planning & Implementation Committee (IPIC), the Planning Commission and the
Board of Supervisors. The CAC may perform the following functions as needed:

- (A) Collaborate with the Planning Department and the Interagency Plan Implementation Committee on prioritizing the community improvement projects and identifying implementation details as part of annual expenditure program that is adopted by the Board of Supervisors;
- (B) Provide an advisory role in a report-back process from the Planning

 Department on enforcement of individual projects' compliance with the Area Plans standards
 and on specific conditions of project approvals so that those agreements will be more
 effectively implemented;
- (C) Collaborate with the Planning Department and relevant city agencies in the monitoring of the Plans' implementation program at approximately every fifth year, in coordination with the Monitoring Program required by the Administrative Code Section 10.E; and provide input to Plan Area monitoring efforts for required time-series reporting.
 - (2) Representation and Appointments.

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- (A) The CAC shall consist 19 members representing the diversity of the Eastern Neighborhoods; key stakeholders, including resident renters, resident homeowners, low-income residents, local merchants, established neighborhood groups within the Plan Area; and other groups identified through refinement of the CAC process.
- (B) All members shall live, work, own property or own a business in the Eastern Neighborhoods Plan Area they are appointed to represent.
- (C) The Board of Supervisors shall appoint a total of eleven members to the CAC. Based on the Supervisorial District boundaries, the District 6 and 10 Supervisors shall nominate 4 four CAC members, the District 9 Supervisor shall nominate two CAC members.

and the District 8 Supervisor shall nominate one CAC member. The appointment of each of the Board's CAC nominees shall be confirmed by the full Board of Supervisors.

- (D) The Mayor shall appoint a total of eight members, with one voting member representing each of the five neighborhoods, and three voting at-large members.
- (E) Members shall serve for two-year terms, but those terms shall be staggered such that, of the initial membership, some members will be randomly selected to serve four year terms and some will serve two year terms.
- (F) At the first official meeting of the CAC, which shall not occur until at least 13 voting members of the CAC have been appointed by the respective appointment process, a lottery shall be conducted in order to randomly select four Board of Supervisors appointees and two Mayoral appointees to serve four-year terms. At a subsequent meeting, when the final two voting members of the CAC have been appointed by the respective appointment process, a lottery shall be conducted in order to randomly select which member shall serve a four-year term.
- (G) The Board of Supervisors and Mayor may renew a member's term by repeating the respective appointment process.
- (3) Committees or Working Groups of the CAC. According to procedures set forth in bylaws adopted by the CAC, the CAC may, at its discretion create subcommittees or working groups based around geographic areas or functional issues. Each of these subcommittees or working groups shall contain at least one CAC member who is eligible to vote, but may also be comprised of individuals who are not members of the CAC. If a non-voting member of the CAC serves on a subcommittee or working group that individual may act as a voting member of the subcommittee or working group.
- (4) Staffing for Eastern Neighborhoods Citizens Advisory Committee. The Planning
 Department or Interagency Plan Implementation Committee shall designate necessary

staffing from relevant agencies to the CAC, as needed to complete the responsibilities and $$
functions of the CAC described in this code. To the extent permitted by law, staffing and
administrative costs for the CAC shall be funded through the Eastern Neighborhoods Public
Benefits Fund. Staff shall participate in the Interagency Planning and Implementation
Committee as set forth in Administrative Code Section 36.
(5) The Eastern Neighborhoods CAC will automatically terminate on December 31

(5) The Eastern Neighborhoods CAC will automatically terminate on December 31, 2020, unless the Board of Supervisors extends the CAC's term by Ordinance.

Section 4. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

APPROVED AS TO FORM: DENNIS J. HERRERA, City Attorney

John D. Malamut Deputy City Attorney

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Phasing Out Plastic Bottled Water on City Property San Francisco Board of Supervisors President David Chiu - Background on Legislation-

OUR ADDICTION TO PLASTIC BOTTLED WATER

Prior to the 1990s, when the plastic bottled water industry experienced a huge growth surge, how did people stay hydrated? We forget that not very long ago plastic bottled water wasn't even an option.

In 1976, the average American drank 1.6 gallons of bottled water a year. In 2007, that number had increased to an average of 28.3 gallons per person. Today, Americans buy more than half a billion bottles of water every week - enough to circle the globe twice. Americans drink more bottled water than any other nation.

In San Francisco, Recology alone collects 10-15 million single-use plastic water bottles a year, and this does not include the bottles that go to redemption centers or landfill. It is likely that tens of millions of single use water bottles from San Francisco end up in our recycling stream or landfill on an annual basis.

San Francisco is extremely fortunate to have access to healthy pristine Hetch Hetchy water, some of the highest quality municipal tap water. Hetch Hetchy water costs less than half a penny per gallon, and its quality is tested over 100,000 times a year. We as a city have invested significantly in our water system. It is unfortunate that many people still choose to purchase expensive plastic bottled water when we have such a healthy and cheap resource coming out of our taps.

ENVIRONMENTAL AND HEALTH IMPACTS

The environmental costs of this massive consumption of bottled water are significant. Eight out of ten plastic water bottles end up in a landfill, and each one takes centuries to decompose. Hundreds of millions end up littering the world's streets, beaches, bay and ocean. If they are incinerated, toxic byproducts, such as chlorine gas and ash containing heavy metals, are released into the atmosphere.

Plastic is made from petroleum, and making all the plastic for the water bottles Americans consume uses 17 million barrels of crude oil annually. That is equivalent to the fuel needed for \$1.3 million vehicles for a year. If you were to fill one quarter of a plastic water bottle with oil, you would be looking at roughly the amount used to produce that bottle. It takes an estimated 2000 times more energy to produce bottled water than it does to produce an equivalent amount of tap water. But the energy needed for plastic bottles goes far beyond their manufacture. They also require significant energy to transport. Bottled water often takes a long journey to U.S. markets. The Earth Policy Institute estimates that the energy used to pump, process, transport and refrigerate bottled water is over 50 million barrels of oil annually.

Bottled water is often filled right from the tap. One third of all bottled water sold in the United States is repackaged tap water. Some companies that are filling their bottles from underwater sources are taking so much that there are nearby communities worried that their own wells will rund ry. Many people drink bottled water because they believe it to be of a higher quality, cleaner and better-tasting, but that's not necessarily true. In the U.S., public water is regulated by the Environmental Protection Agency (EPA), which requires multiple daily tests for bacteria and makes results available to the public. The Food and Drug Administration, which regulates bottled water, only requires weekly testing and does not share its findings with the EPA or the public.

Many plastic water bottles contain chemicals called phthalates that it has been shown can leach into the water. Phthalates are known to disrupt testosterone and other hormones, which can lead to infertility, cancer, miscarriages and other health problems.

THE GROWING MOVEMENT TO REDUCE PLASTIC WATER BOTTLES

- ✓ In 2007, San Francisco became the first U.S. city to end municipal spending on bottled water, paving the way for cities, parks and universities around the country to think outside the bottle. Today dozens of universities have bottled-water-free policies that are in different stages of implementation. There are 14 bottled-water-free national parks, including large parks such as Grand Canyon National Park. There are efforts underway to add more national parks to this list.
- In 2008, San Francisco's California Academy of Sciences museum made a commitment to never sell
 or give away disposable bottled water.
- In 2012, Supervisor Chiu sponsored first-in-the nation legislation that requires that new buildings constructed must install bottle filling stations if they are already required to install drinking fountains. Through this and many other efforts, San Francisco has demonstrated a longstanding commitment to educating residents about the environmental, economic, and health benefits of drinking tap water.
- In 2012, the Port Commission of San Francisco passed the "Policy for Zero Waste Events and Activities," which among other things restricts plastic bottles on Port property at events with over 5,000 attendees.
- ✓ In 2013, Concord, MA became the first U.S. city to go entirely bottled-water-free. Their law prohibits the sale of non-sparkling, unflavored drinking water in single-serving plastic bottles of 1L or less. In 2008, the Toronto approved a measure prohibiting the sale and distribution of water bottles at most of the city's parks and park facilities. Numerous municipalities across Canada have similar bottle bans or restrictions in place.

LEGISLATIVE PROPOSAL

The first-in-the-nation legislation would gradually phase-out the sale and distribution of bottled water on City property. It would apply to events (over 100 people), permitted vendors and lessees on City property, as well as City departments themselves.

Beginning in late 2014, events that have access to adequate on-site water would be prohibited from selling or distributing bottled water. However, by late 2016, all events on city property would. Foot races and other participant sporting events are excluded. Beginning in late 2014, permits and leases on City property will have to include language prohibiting the sale of bottled water. So that it is fair and focused on the future, the legislation would not apply to existing lessees and permit holders, but only ones going forward. Departments will be able to grant waivers to events, permittees, lessees under certain circumstances.

In conjunction what is being asked of others, the legislation requires City government to act as well to increase access to public water. It requires that drinking fountains, filling stations, and/or event water hook-ups be installed when appropriate where there is a capital project in a heavily used public park or plaza. In the absence of capital projects, the proposal asks the City to investigate solutions that would allow events to hook up to the municipal water infrastructure. Finally, City departments would no longer be allowed to purchase plastic bottled water with city funds.

This proposal is a common-sense approach to begin tackling the enormous problem of excess plastic in the waste stream. It gives events, vendors, and permittees on City property adequate time to develop alternatives to selling disposable plastic water bottles. There are already a growing number of cost effective alternatives to bottled water that are available to events and permittees, and the number of these will only keep growing. (See "Alternatives to Plastic Bottled Water" section.)

ALTERNATIVES TO PLASTIC BOTTLED WATER

Today there are many water provision options available to event producers, and this number continues to grow. There are services that provide water tanks or trucks to events where potable water is not available at the site. Alternative water solutions also include devices that attach to municipal water lines. The rental cost for these can be as low as \$200 per unit.

The SFPUC already has a process for providing events direct access to water lines, although at this point it is not a common practice. Because the proposed legislation asks the SFPUC and other departments to develop more ways for events to access the municipal water infrastructure, there will be increasingly more hook-up options for events. (See "Additional Resources" section for examples.)

If event sponsors and vendors on city property do not wish to apply larger scale water solutions like these described, transitioning away from plastic water bottle sales is still possible. They could sell cups or reusable stainless steel water bottles and provide a water container from which to fill them.

EVENTS ALREADY REDUCING PLASTIC WATER BOTTLE WASTE

Many events in San Francisco have already made the transition to be entirely plastic bottled water-free. These include America's Cup, SF Oysterfest, Earth Day, TEDx SF, SF Chronicle Winefest, SF Beer Week, the 75th Anniversary of the Golden Gate Bridge, Good Food Awards, and SF International Tea Festival.

Outside Lands: Very large events such as Outside Lands music festival, produced by Another Planet, have already proven that significant change is possible. Since Outside Lands implemented its refiliable water program in 2009, plastic bottle consumption has decreased by two thirds. In 2012, the event went through 1680 reusable 5-gallon water jugs, which is the equivalent of 10,752 20oz plastic water bottles averted.

America's Cup: The best recent example is the 34th America's Cup event. All of their contracts with caterers, merchandisers, and others prohibited the sale of beverages in single-use bottles. In all contracts with teams, partners and vendors, staff were prohibited from bringing single-use bottles onsite, even for personal use. At the event sites, water filling stations were hooked up to fire hydrants so attendees could fill their reusable bottles at no cost. These stations poured over 38,000 liters of water to event spectators, equivalent to avoiding over 76,000 single use plastic water bottles. The event also provided reusable bottles for sale; merchandising shops were all required to offer a stock of reusable bottles.

ADDITIONAL RESOURCES

The Water Monster - Mobile water distribution system. For purchase only. Easily transportable when empty. http://thewatermonster.com

US Pure Water – Mobile, filtered, stainless steel tap water distribution stations. Can truck in water with no on-site access.

http://uspw.net/solutions/event-producers

Flexi Fountain - Mobile, drinking fountain with 6 sipping stations.

http://www.flexidrinkingfountain.com

 ${\color{blue} \underline{http://inhabitat.com/nyc/mobile-water-on-the-go-stations-keep-thirsty-crowds-quenched-with-delicious-nyc-tap-water/water on the go-3/}$

Tap Minneapolis Prototype Drinking Fountain - Just a prototype but isn't it cool?

 $\frac{http://www.facebook.com/photo.php?fbid=106223092290\&set=a.106207377290.94801.86013327290\&type=3\&theater}{}.$

City of Toronto Owned Mobile Water Trailer - Provided for free to events in the City limits. http://www.toronto.ca/water/htotogo/index.htm

Event Water Solutions – Stainless steel, filtered water refill stations, hooked up to municipal water source. http://www.eventwatersolutions.com/

Green Mary – Zero waste event service provider in SF. Rental and set up of tap water distribution systems. http://www.green-mary.com/index.php?option=com_content&view=category&layout=blog&id=65<emid=58

Bottled Water Alternatives Purchasing Guide

http://www.stopcorporateabuse.org/sites/default/files/resources/rpn purchasing guide 0.pdf

Denver's Fountain and Hydrant Connection Rules for Events

http://www.denverwater.org/BillingRates/RatesCharges/SpecialCharges/ConnectionsSpecialEvents/

Toronto Bottled Water Ban on City Property

http://www.toronto.ca/parks/permits/general-information/water bottle ban.htm

For more information, contact Catherine Rauschuber, legislative assistant to Supervisor David Chiu, at catherine.rauschuber@sfgov.org or (415) 554-7450.

LEGISLATIVE DIGEST

[Environment Code - Bottled Water]

Ordinance amending the Environment Code to restrict the sale or distribution on City property of drinking water in plastic bottles of 21 ounces or less, set City policy to increase the availability of drinking water in public areas, and bar the use of City funds to purchase bottled water; and making environmental findings.

Existing Law

The City has no laws specifically regulating the sale or distribution of bottled water at events held on City property.

Amendments to Current Law

The proposal is an ordinance that would amend the Environment Code to add a new Chapter 24, the "San Francisco Bottled Water Ordinance." "Bottled Water" would mean drinking water in a sealed rigid plastic bottle having a capacity of 21 fluid ounces or less.

Events on City Property

Starting October 1, 2014, no person would be allowed sell or distribute Bottled Water at an indoor event held on City property, or an outdoor event held City property, including a City street, where the City allowed the sponsor to use an on-site water supply. Starting October 1, 2016, no person would be allowed to sell or distribute Bottled Water at an outdoor event held on City property.

These restrictions would only apply to events where more than 100 people attended or participated. These restrictions would not apply to public athletic events held on City property, to events where the City grants the general public access to enter or use the property without a permit, or to events held on City property where the sponsor applied for or received the permit prior to July 1, 2014.

A City officer or department responsible for an event or the property to be used for an event could waive these requirements in full or in part if the event sponsor demonstrated that strict application of the requirement would be not feasible, would create an undue hardship or practical difficulty, or that circumstances otherwise warranted granting of the waiver.

Permits and Leases; Food Trucks

Starting October 1, 2104, all new permits or leases allowing any person to use City property for purposes that included the sale or distribution of beverages would have to specifically require that the permittee comply with the Chapter. This requirement would also apply to any such permit or lease renewed, extended, or materially amended after that date. Starting October 1, 2014, no City officer or department would be allowed to issue a bid proposal or solicitation, request for bid or proposal, or contract for vendors or concessions to be operated on City property that would require or permit the sale or distribution of Bottled Water on such property. These restrictions would not apply to concessions/vendors at San Francisco Airport facilities. These restrictions also would not apply to the Moscone Center until January 1, 2018, or completion of the first phase of the current expansion of the facility, whichever occurs sooner.

Starting October 1, 2014, all Mobile Food Facility (food truck) permits issued or renewed under Article 5.8 of the Public Works Code would have to specifically provide that the permittee shall not sell or distribute Bottled Water as part of the operation of the Facility.

Policy to Increase the Availability of Clean, Free Drinking Water in Public Areas

The proposal would make it City policy to increase the availability of clean, free drinking water in public areas. In particular, it would be City policy that any City department undertaking a capital improvement in a park, plaza, playground, or other public space ensure that the space includes bottle-filling stations or drinking fountains for public use, if reasonable and appropriate. And it would be City policy to encourage the inclusion of bottle-filling stations or drinking fountains for public use in Privately-Owned Public Open Spaces.

Use of City Funds to Purchase Bottled Water

The ordinance would prohibit City officers and departments from using City funds to purchase Bottled Water for their own general use. It would be City policy not to have drinking water systems in City offices or facilities that use plastic water bottles of any size where satisfactory alternatives exist and are feasible at the location under consideration. And it would further be City policy to conform drinking water systems in City offices or facilities to this goal where reasonable by the end of 2016.

Penalties

An event sponsor who allowed the sale or distribution of Bottled Water in violation of the Chapter could be punished by administrative fines imposed by the Director of the Department of the Environment in the amount of up to \$500 for a first violation, up to \$750 for a second violation within a year, and up to \$1,000 for a third and subsequent violations within a year.

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NOTE:

[Environment Code - Bottled Water]

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Ordinance amending the Environment Code to restrict the sale or distribution on City property of drinking water in plastic bottles of 21 ounces or less, set City policy to increase the availability of drinking water in public areas, and bar the use of City funds to purchase bottled water; and making environmental findings.

7 8 9 Unchanged Code text and uncodified text are in plain Arial font.
Additions to Codes are in single-underline italics Times New Roman font.
Deletions to Codes are in strikethrough Italics Times New Roman font.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in strikethrough Arial font.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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Be it ordained by the People of the City and County of San Francisco:

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Section 1. Environmental Findings. The Planning Department has determined that the
actions contemplated in this ordinance comply with the California Environmental Quality Act
(California Public Resources Code Section 21000 et seq.). Said determination is on file with
the Clerk of the Board of Supervisors in File No. ______ and is incorporated herein

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Section 2. Findings.

by reference.

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(a) The City and County of San Francisco has a duty to protect the natural environment, the economy and the health of its citizens. San Francisco is renowned as an environmental leader as a result of the City's adoption of cutting edge policies and its smart and strategic implementation of those policies. Policies such as Plastic Bag Reduction Ordinance enacted in March 2007, the City's zero waste policy, and the requirement that new

- (b) Americans currently buy half a billion bottles of water every week, enough to circle the globe twice. We consume more bottles of water than any other nation. An estimated 2 million tons of plastic water bottles end up in landfills each year. In San Francisco, Recology collects 10-15 million single-use plastic water bottles a year, and this number does not include bottles that go to redemption centers or landfill. It is likely that tens of millions of single-use plastic water bottles from San Francisco end up in our recycling stream or landfill on an annual basis.
- (c) A plastic bottle in a landfill takes centuries to decompose. While advances by water bottle producers have reduced the amount of packaging and weight of bottle containers that ultimately reach the City's waste facilities, alternatives to plastic bottles, such as reusable bottles, drinking fountains, and water stations produce an insignificant amount of waste in comparison.
- (d) Almost all this plastic is made from petroleum, requiring nearly 17 million gallons of crude oil annually. Aside from their manufacture, single-use bottles have significant environmental impacts throughout their lifecycle. The bottles require significant energy to transport and often take a long journey to U.S. markets. In 2006, the equivalent of 2 billion half-liter bottles arrived in U.S. ports, according to the Natural Resources Defense Council. Fiji shipped 18 million gallons of bottled water to California, releasing about 2,500 tons of transportation-related pollution. When incinerated, rather than being left to decompose, a plastic bottle releases chlorine gas and heavy metal ash.
- (e) Many plastic water bottles contain chemicals called phthalates that it has been shown can leach into the water. Phthalates are known to disrupt testosterone and other hormones, which can lead to infertility, cancer, miscarriages and other health problems.

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- (f) The City has repeatedly demonstrated its commitment to reducing this type of waste. The Mayor's 2007 executive order barring the purchase of bottled water by City Departments with City funds is widely recognized as an example of San Francisco's exemplary policies and demonstrates the City's longstanding commitment to environmental sustainability. And while significant strides have been made by City Departments in carrying out this directive, much more remains to be done in connection with City-sponsored and Cityauthorized events and activities on City property.
- (g) The Port Commission recently showed great leadership in adopting the balanced and thoughtful "Policy for Zero Waste Events and Activities," restricting plastic bottles on Port property at events with over 5,000 attendees.
- (h) Many people drink bottled water because they believe it to be of a higher quality, cleaner and better-tasting, but that perception not necessarily accurate. In the United States, public water is regulated by the Environmental Protection Agency (EPA), which requires multiple daily tests for bacteria and makes results available to the public. The Food and Drug Administration, which regulates bottled water, only requires weekly testing and does not share its findings with the EPA or the public.
- (i) The City's own supply of tap water is one of the cleanest and best tasting in the country. The San Francisco Public Utilities Commission delivers pristine drinking water through the Hetch Hetchy Reservoir in Yosemite National Park and Hetch Hetchy Regional Water System, which meets or exceeds all federal and state criteria for drinking water quality and is tested over 100,000 times per year. The system also uses gravity to transport water to the municipality, while bottled water uses less environmentally-friendly means for transportation.
- (j) Bottled water is more expensive than tap water for the average consumer. Bottled water cost consumers an average of \$1.30 per gallon (\$11.8. billion/9.1 billion gallons); San

- 1 Francisco's municipal water from Hetch Hetchy costs about \$0.03 per gallon. Yet bottled
- water is often filled right from the tap. It is estimated that one third of all bottled water sold in
 the United States is repackaged tap water. Some companies that are filling their bottles from
- 4 underwater sources are taking so much that there are nearby communities worried that their
- 5 own wells will run dry.

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1	Section 3. The San Francisco Environment Code is hereby amended by adding
2	Chapter 24, Sections 2401 through 2409, to read as follows:
3	Chapter 24: Bottled Drinking Water
4	Sec. 2401. Title.
5	Sec. 2402. Definitions.
6	Sec. 2403. Sale Or Distribution Of Bottled Water on City Property Restricted.
7	Sec. 2404. New Leases, Permits, And Agreements; Mobile Food Facilities.
8	Sec. 2405. Barring Use Of City Funds For Purchase Of Bottled Water.
9	Sec. 2406. Waivers.
10	Sec. 2407. Implementation.
11	Sec. 2408. Enforcement And Penalties.
12	Sec. 2409. Increasing the City's Commitment to Providing Public Water.
13	
14	SEC. 2401. TITLE.
15	The title of this Chapter shall be the San Francisco Bottled Water Ordinance.
16	
17	SEC. 2402. DEFINITIONS.
18	For purposes of this Chapter,
19	"Bottled Water" means drinking water in a sealed Rigid Plastic Bottle having a capacity of
20	21 fluid ounces or less.
21	"City Property" means real property, including any buildings thereon, owned or leased by the
22	City and County of San Francisco ("City"), and in the City's possession or in the possession of a
23	public or private entity under contract with the City to perform a public purpose, including but not
24	limited to the following property: recreational and park property including but not limited to Golden
25	Gate Park, the San Francisco Zoo, and San Francisco's parks and playgrounds, plazas including but

1	not limited to United Nations Plaza and Hallidie Plaza, community centers such as Ella Hill Hutch
2	Community Center, and property of the Department of Recreation and Parks, the Port, and the Public
3	Utilities Commission. "City Property" includes a "City Street."
4	"City Funds" means all monies or other assets received and managed by, or which are
5	otherwise under the control of, the Treasurer, and any notes, bonds, securities, certificates of
6	indebtedness or other fiscal obligations issued by the City and County.
7	"City Street" means the public right-of-way owned by the City, including any area across,
8	along, on, over, upon, and within the dedicated public alleys, boulevards, courts, lanes, roads,
9	sidewalks, streets, and ways within the City.

"Event" means any gathering held on City Property, including a City Street, and subject to a City permit, where more than 100 people attend or participate.

"Mineral water" means drinking water containing more that 500 milligrams per liter of total dissolved solids and/or one or more chemical constituents in excess of the concentrations listed in the Federal Bottled Water Quality Standards (Title 21, Code of Federal Regs., Sec. 165.110).

"Participant Athletic Event" means an athletic event in which a group of people collectively walk, jog, run, or bicycle or otherwise participate in a sport on City Property, including a City Street.

"Rigid Plastic Bottle" means any formed or molded container comprised predominantly of plastic resin, having a relatively inflexible fixed shape or form, having a neck that is smaller than the container body, and intended primarily as a single service container. "Rigid Plastic Bottle" includes a compostable plastic bottle meeting these criteria.

"Water" includes: natural spring or well water; water taken from municipal or private utility systems or other sources; distilled, deionized, filtered, or other purified water; or any of the foregoing to which chemicals may be added. "Water" does not include; mineral water; carbonated or sparkling water; soda, seltzer, or tonic water; or flavored water, also marketed as fitness water, vitamin water, enhanced water, energy water, or other similar products. "Water" does not include those food

1	ingredients that are listed in ingredient labeling as "water," "carbonated water," "disinfected water,"
2	or "filtered water."
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4	SEC. 2403. SALE OR DISTRIBUTION OF BOTTLED WATER ON CITY PROPERTY
5	RESTRICTED.
6	(a) Starting October 1, 2014, no person may sell or distribute Bottled Water at an Event held
7	indoors on City Property.
8	(b) Starting October 1, 2014, no person may sell or distribute Bottled Water at an Event held
9	outdoors on City Property, including a City Street, where the permitting Department allows the Event
10	sponsor access to reliable on-site potable water connections adequate to meet the hydration needs of
11	the Event participants or attendees. Departments that issue permits for Events on their properties and
12	in their facilities shall, by July 1, 2014, determine which properties that are frequently used for Event.
13	have a reliable on-site supply of drinking water that could be used by Event sponsors.
14	(c) Starting October 1, 2016, no person may sell or distribute Bottled Water at an Event held
15	outdoors on City Property, including a City Street.
16	(d) The provisions of this Section 2403 shall not apply to the sale or distribution of Bottled
17	Water to participants in a Participant Athletic Event. The provisions of this Section 2403 shall not
18	apply where the City grants the general public access to enter or use City Property in question.
19	including a City Street, without requiring issuance of a permit.
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21	SEC. 2404. NEW LEASES, PERMITS, AND AGREEMENTS; MOBILE FOOD FACILITIES.
22	(a) Starting October 1, 2014, all new leases, permits, management agreements or other
23	agreements awarded by the City allowing any person to use City Property, including a City Street, for
24	purposes that contemplate or would allow the sale or distribution of beverages (collectively,
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ı	"permits") shall specifically require that the permittee comply with this Chapter. This requirement
2	shall also apply to any such permit renewed, extended, or materially amended after October 1, 2014
3	(b) Starting October 1, 2014, no City officer or department shall issue a bid proposal or
1	solicitation, request for bid or proposal, or contract for vendors or concessions to be operated on City
5	Property that would require or permit the sale or distribution of Bottled Water on such property.
6	(c) This Section 2404 does not apply to concessions/vendors at San Francisco Airport facilities.
7	This Section 2404 does not apply to permits for the use of City Property, including a City Street, for a
3	Participant Athletic Event, if the permit provides that the Event sponsor may only sell or distribute
9	Bottled Water, or allow the sale or distribution of Bottled Water, to participants in the Participant
)	Athletic Event and not to any other persons. This Section 2404 will not apply to concessions/vendors at
1	the Moscone Center facility until (1) the City Administrator certifies to the Board of Supervisors that
2	the first phase of the expansion of the facility, the plans for which include installation of bottle filling
3	stations, has been completed, or (2) January 1, 2018, whichever is sooner.
4	(d) Starting October 1, 2014, all Mobile Food Facility permits issued or renewed under
5	Article 5.8 of the Public Works Code shall specifically provide that the permittee shall not sell or
6	distribute or allow the sale or distribution of Bottled Water as part of the operation of the Facility.
7	
8	SEC. 2405. BARRING USE OF CITY FUNDS FOR PURCHASE OF BOTTLED WATER.

(a) No City officer or department shall use City Funds to purchase Bottled Water for its own general use. A City officer or department may use City Funds to purchase Bottled Water for uses specifically exempted from or allowed under this Chapter.

(b) It shall be City policy not to have drinking water systems in City offices or facilities that use plastic water bottles of any size where satisfactory alternatives exist and are feasible at the location under consideration. It shall further be City policy to conform drinking water systems in City offices or facilities to this goal where reasonable by the end of 2016.

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SEC, 2406, WAIVERS.

(a) A City officer or department responsible for permitting an Event on or issuing a lease for City Property may waive the requirements of Sections 2403 and 2404 in full or in part if the Event sponsor or lessee demonstrates to the satisfaction of the officer or department that strict application of the requirement would not be feasible, would create an undue hardship or practical difficulty, or that circumstances otherwise warrant granting of the waiver. The officer's or department's decision to grant a waiver shall be in writing and shall be final.

(b) The provisions of Sections 2403 and 2404 shall not apply where the responsible City department finds that the inclusion or application of such provisions would violate or be inconsistent with the terms or conditions of a grant, subvention or contract with an agency of the State of California or the United States or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or contract.

(c) The provisions of Section 2405(a) shall not apply where the responsible City department finds that relying on Bottled Water is necessary in a given situation to protect the public health, safety and welfare, and no reasonable alternative to Bottled Water will serve the same purpose.

(d) Departments shall report all waivers granted under subsection (a) and determinations of non-applicability made under subsections (b) and (c) to the Director of the Department of the Environment on a quarterly basis, and include the reason for each waiver.

SEC. 2407. IMPLEMENTATION.

(a) This Chapter shall not apply to an Event held on City Property, including a City Street, where the sponsor applied for or received the permit prior to July 1, 2014. Nothing in this Chapter shall be construed to impair a contract, lease, management agreement or other legally-binding agreement to which the City is a party on the effective date of this Chapter.

1	(b) The Department of the Environment and the Public Utilities Commission shall take
2	appropriate steps to educate and inform City departments about the requirements of this Chapter.
3	(c) The Director of the Department of the Environment shall submit an annual report to the
4	Mayor and the Board of Supervisors on the implementation of this Chapter. The report shall include
5	the number of waivers granted by City officers or departments under Section 2406(a) and
6	determinations of non-applicability made under Section 2406(b) and (c), and a brief explanation of the
7	justifications for the same.
8	
9	SEC. 2408. ENFORCEMENT AND PENALTIES.
0	(a) Any person who violates any provision of Section 2403 or of an administrative regulation
1	adopted under this Article to implement that Section may be punished by administrative fines imposed
2	by the Director of the Department of the Environment in the amount of:
3	(1) Up to \$500 for the first violation;
4	(2) Up to \$750 for a second violation within a twelve-month period; and
15	(3) Up to \$1,000 for a third and subsequent violations within a twelve-month period.
16	(b) Except as provided in subsection (a), setting forth the amount of administrative fines.
17	Administrative Code Chapter 100, "Procedures Governing the Imposition of Administrative Fines," as
18	may be amended from time to time, is hereby incorporated in its entirety and shall govern the
19	imposition, enforcement, collection, and review of administrative citations issued by the Director to
20	enforce this Article or any administrative regulation adopted under this Article.
21	
22	SEC, 2409. INCREASING THE CITY'S COMMITMENT TO PROVIDING PUBLIC WATER.
23	(a) It shall be City policy to increase the availability of clean, free drinking water in public
24	areas. City departments shall take all reasonable and appropriate steps to promote and facilitate

achievement of the goals and policies of this Chapter, including helping Event sponsors and other City
departments to meet the requirements of this Chapter.
(b) The San Francisco Public Utilities Commission (the "SFPUC"), in consultation with the
Department of Public Health and other appropriate City departments, shall investigate standards and
procedures for allowing Event sponsors to access additional City-controlled or -operated water
supplies. The SFPUC shall report its findings and recommendations to the Board of Supervisors by
<u>July 1, 2014.</u>
(c) The SFPUC, in consultation with appropriate City departments, shall investigate installing
backflow preventers and related plumbing equipment on existing potable water systems, to facilitate

public access to such potable water in the park sites most frequently used for special events. The

SFPUC shall report its findings and recommendations to the Board of Supervisors by July 1, 2014.

(d) It shall be City policy that any City department undertaking a capital improvement in a

park plaza, playground, or other public space shall install bottle-filling stations, drinking fountains,
and or potable water hook-ups for public use, if the department finds that the installation is proximate

(e) It shall be City policy to encourage the inclusion of bottle-filling stations or drinking fountains for public use in Privately-Owned Public Open Spaces as defined in Planning Code Section 135(a), as amended.

and feasible with the scale and scope of the capital improvement

1 2 3

Section 4. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance would be subsequently declared invalid or unconstitutional.

Section 6. Undertaking for the General Welfare. In enacting and implementing this ordinance, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

Section 7. No Conflict with Federal or State Law. Nothing in this ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

APPROVED AS TO FORM: DENNIS J. HERRERA, City Attorney

By:

THOMAS J. OWEN Deputy City Attorney

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SMALL BUSINESS COMMISSION DRAFT MEETING MINUTES



Monday, February 10, 2014
5:30 P.M.
CITY HALL, ROOM 400
1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 GOVERNMENT
DOCUMENTS DEPT

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SMALL BUSINESS COMMISSIONERS

Stephen Adams, President Monetta White, Vice President Kathleen Dooley, Mark Dwight William Ortiz-Cartagena, Irene Yee Riley FEB 21 2014

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1. Call to order and roll call.

The meeting was called to order at 5:33 PM. Commissioners Adams, Dooley, Dwight, Ortiz Cartagena, Yee Riley, and White were present. All commissioners were in attendance, and one seat on the Commission was vacant.

2. General Public Comment. (Discussion Item)

General Public Comment was called for and one member of the public requested to speak.

Jordan Angle, whose family owns the property at 493 Broadway, spoke in opposition to BOS File No. 131120 [Planning Code, Zoning Map - Broadway Alcohol Restricted Use District]. Mr. Angle expressed his confusion that the item was not on the agenda even though it was said at the Legislation and Policy Committee hearing of the item that it would be on the agenda.

Public comment was closed.

3. Approval of the January 27, 2014 regular meeting minutes. (Action Item)

Explanatory Documents: Draft January 27, 2014 regular meeting minutes

Motion: Commissioner Yee Riley motioned to adopt the meeting minutes.

2nd: Commissioner Dwight

Aye: Adams, Dooley, Dwight, Ortiz Cartagena, Yee Riley, and White

Nav: None

Absent: None

Presentation of a Small Business Commission Certificate of Honor recognizing Commissioner Luke O'Brien for more than four years of service on the Commission. (Discussion Item)

Former Commissioner O'Brien was not present at the meeting and requested that it be continued to the meeting of February 24, 2014.

Motion: Commissioner Adams motioned to adopt continue the item to the meeting of February 24, 2014.

2nd: Commissioner Dwight

SMALL BUSINESS COMMISSION 1 Dr. Carlton B. Goodlett Place, Room 110 San Francisco, CA 94102 415.554.6134

REGINA DICK-ENDRIZZI, EXECUTIVE DIRECTOR CHRISTIAN MURDOCK, ACTING COMMISSION SECRETARY Ave: Adams, Dooley, Dwight, Ortiz Cartagena, Yee Riley, and White

Nav: None

Absent: None

Discussion and possible action to make recommendations to the Board of Supervisors on Board of Supervisors
FIE No. 131205 [Planning Code - Production, Distribution, and Repair Zoning]. (Discussion and Possible
Action Item)

Explanatory Documents: BOS File No. 131205; BOS File No. 131205 Legislative Digest

Tiffany Garcia, Office of Economic and Workforce Development, and Andrea Bruss, Legislative Aide to Supervisor Malia Cohen, presented. Ms. Garcia provided an overview of the manufacturing sector in San Francisco, while Ms. Bruss described the specific Planning Code provisions and anticipated impacts of the proposal.

Commissioner Dooley asked how, if at all, this legislation would affect vacant big-box retail spaces. Ms. Bruss responded she was not aware of vacant big-box spaces in production, distribution, and repair (PDR) zoning areas. Since this legislation only applies to PDR zones, it is unlikely to have an impact on vacant big-box properties.

During commission discussion, Commissioner Dwight expressed his concerns about the accessory retail use provisions in the proposal. He stated that the provisions focus too closely on the allocation of retail space between building tenants. In his opinion, the level of detail proposed would hamper business flexibility and would likely be extremely difficult to enforce. Ms. Bruss responded that this topic had been discussed by the legislative sponsors with staff from several departments, and they would be open to a suggestion from the Commission related to this item. She indicated it would be received favorably and may be incorporated as an amendment.

General Public Comment was called for and one member of the public requested to speak.

Ace Washington, a long-time community advocate, introduced himself and then indicated he would wait until later in the meeting to make a general statement about a matter not on the agenda.

Public comment was closed. Acting Commission Secretary Murdock noted for the record that a written statement of support for the proposed legislation had been submitted by Kate Sofis of SFMade, a nonprofit organization advocating for the manufacturing industry in San Francisco.

Motion: Commissioner Dwight motioned to recommend approval of the legislation with modifications to the final sentence of subsection (d) of section 204.3 (regarding accessory retail uses) to read as follows: "For accessory retail, multiple PDR uses within a single building may combine their accessory retail allotment into a single space, as long as the total allotment of accessory retail space per building does not exceed what otherwise would be permitted by this Section."

2nd: Commissioner Doolev

Aye: Adams, Dooley, Dwight, Ortiz Cartagena, Yee Riley, and White

Nay: None

Absent: None

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REGINA DICK-ENDRIZZI, EXECUTIVE DIRECTOR CHRISTIAN MURDOCK, ACTING COMMISSION SECRETARY

Discussion and possible action to make recommendations to the Board of Supervisors on Board of Supervisors
File No. 131207 [Environment Code - Bottled Water]. (Discussion and Possible Action Item)

Explanatory Documents: BOS File No. 131207; BOS File No. 131207 Legislative Digest

Catherine Rauschuber, Legislative Aide to Supervisor David Chiu, presented. Ms. Rauschuber described the environmental impacts of excessive plastic bottle consumption and specific provisions of the legislative proposal.

Several commissioners asked questions of Ms. Rauschuber:

Commissioner Dwight asked whether water served in metal cans and glass bottles would still be permitted under this proposal. Ms. Rauschuber responded that non-plastic containers would still be permitted Commissioner Dwight also conveyed concerns about the energy use and recyclability of glass and aluminum, as well as potential incompatibility with broader City efforts aimed to reduce soda consumption. He suggested contacting the local waste hauler to determine its ability to handle a drastic increase in bulkier, heavier beverage containers. Overall, Commissioner Dwight stated the legislation had too many loopholes, unanswered questions, and potential unintended consequences to garner his support.

Commissioner Adams asked what will happen at major outdoor events like "Pride." Ms. Rauschuber said hits topic hesen discussed. Since the event is so large, the legislative sponsor is considering allowing more time for events such as Pride to comply. Commissioner Adams then expressed broader concern with complying with the legislation's requirements in locations other than permanent City buildings. He also indicated curiosity why sodas and juices were not included since they are also sold in plastic bottles.

Commissioner Dooley expressed concerns about compliance by mobile food facilities, especially push carts and also food trucks. She suggested there is not enough infrastructure on streets for filling reusable containers, and would encourage working on that aspect of this problem first. Ms. Rauschuber stated she had engaged with Mathew Cohen of Off-the-Grid to discuss possible alternatives.

Commissioner Ortiz-Cartagena asked about the waiver process and what impacts smaller "mom-and-pop" mobile food facilities (food carts) might experience. Many of these businesses may earn a substantial mark-up on such drinks and may impact their bottom line. Ms. Rauschuber said permitting departments could issue waivers.

Commissioner Yee Riley expressed concern that the current proposal might simply result in shifting disposed plastic consumption from water bottles to cups served by merchants. Commissioner Dooley echoed this concern. Ms. Rauschuber responded that she hoped vendors would use compostable or paper cups, or customers would bring reusable beverage containers.

Commissioner White conveyed concern about the impacts to mobile food facilities, especially pushcarts. She inquired into the scale of plastic bottle waste being generated by those uses. Ms. Rauschuber welcomed a Commission recommendation to remove food trucks and push carts from the legislation, and indicated she did not have data related to the volume of plastic waste they generate.

General Public Comment was called for and one member of the public requested to speak.

Julie Bryant, Department of the Environment, spoke in favor of the legislation. She described how events had been successfully transitioning away from bottled water in ever greater numbers. Plastic bottle usage has resulted in major environmental impacts by entering the waste stream, and after photodegradation in the bay and elsewhere.

Michael Davis, US Pure Water, spoke in favor of the legislation and discussed how event producers and others can overcome a lack of bottled water.

Steven Cornell spoke in opposition to the legislation. He described the long-term impact of compounding regulations that are well-intentioned but have serious impacts on small businesses.

Public comment was closed

No formal action was taken. Several commissioners communicated to Ms. Rauschuber their desire for a

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REGINA DICK-ENDRIZZI, EXECUTIVE DIRECTOR CHRISTIAN MURDOCK, ACTING COMMISSION SECRETARY

reworked proposal to be brought before the Commission at a later time. The Commission authorized Director Dick-Endrizzi to explain the Commission's concerns with the legislation to the Board of Supervisors.

7. Director's Report. (Discussion Item)

Director Dick-Endrizzi presented a written and verbal report.

8. Legislation and Policy Committee Report. (Discussion Item)

Commissioner Adams reported on the committee's review of legislation on January 27 related to electronic cigarettes, bottled water, PDR zoning, and Broadway Alcohol Restricted Use District.

9. President's Report. (Discussion Item)

Commissioner Adams reported that Small Business Week is coming soon, and reported his attendance at the Council of District Merchants Associations annual dinner on February 6.

10. Vice President's Report. (Discussion Item)

Commissioner White reported her attendance at the Council of District Merchants Associations annual dinner on February 6.

11. Commissioner Reports. (Discussion Item)

Commissioner Dooley reported her attendance at the Council of District Merchants Associations annual dinner on February 6, as well as her meeting with community representatives at the Ella Hill Hutch Community Center. She will be starting a program for youth to get more involved in various industries, starting with the floral industry.

Commissioner Dwight reported his attendance at the Mayor's quarterly meeting with small businesses. The major topic of discussion was the Mayor's proposal to increase San Francisco's minimum wage.

12. General Public Comment. (Discussion Item)

Ace Washington shared concerns about redevelopment in the Fillmore district and the impact of certain individuals on the community. He encouraged members in the community to stand-up and work together to improve the business climate and other problems.

13. New Business. (Discussion Item)

None

14. Adjournment. (Action Item)

Motion: Commissioner Yee Riley motioned to adjourn.

2nd: Commissioner Dwight

Aye: Adams, Dooley, Dwight, Ortiz Cartagena, Yee Riley, and White

Nay: None

Absent: None

The meeting was adjourned at 6:52 PM.

SMALL BUSINESS COMMISSION 1 Dr. Carlton B. Goodlett Place, Room 110 San Francisco, CA 94102 415.554.6134







SMALL BUSINESS COMMISSION NOTICE OF MEETING & AGENDA



Monday, February 24, 2014 2:00 P.M. CITY HALL, ROOM 400

1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 GOVERNMENT DOCUMENTS DEPT

SMALL BUSINESS COMMISSIONERS

Stephen Adams, President Monetta White, Vice President Kathleen Dooley, Mark Dwight William Ortiz-Cartagena, Irene Yee Riley FEB 21 2014

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- 1. Call to order and roll call.
- General Public Comment: Allows members of the public to comment generally on matters within the
 Commission's purview, and suggest new agenda items for the Commission's future consideration. (Discussion
 Item)
- 3. Approval of the February 10, 2014 regular meeting minutes. (Action Item)

Explanatory Documents: Draft February 10, 2014 regular meeting minutes

- 4. Presentation of a Small Business Commission Certificate of Honor recognizing Commissioner Luke O'Brien for more than four years of service on the Commission. (Discussion Item)
- 5. Discussion and possible action to make recommendations to the Board of Supervisors on Board of Supervisors File No. 131208 [Health Code Restrictions on Sale and Use of Electronic Cigarettes]: Ordinance amending the Health Code to prohibit the use of electronic cigarettes where smoking is otherwise prohibited; require a tobacco permit for the sale of electronic cigarettes; prohibit the sale of electronic cigarettes where the sale of tobacco products is otherwise prohibited; and making environmental findings. (Discussion and Possible Action Item)

Explanatory Documents: BOS File No. 131208; BOS File No. 131208 Legislative Digest

Presentation by Victor Lim, Legislative Aide to Supervisor Eric Mar; Derek Smith, Department of Public Health; Dr. Lucy Popova, University of California, San Francisco; and, Avani Desai, Youth Leadership Institute.

6. Presentation on the Geary Bus Rapid Transit (BRT) project: Overview and update of the Geary BRT project, including a) discussion of a newly identified staff-recommended alternative for the design of the proposed bus lanes; b) recent project activities relating to businesses along the Geary corridor, including surveys of businesses and visitors, and an economic analysis; and, c) next steps and schedule for completion of the environmental review process. (Discussion Item)

Explanatory Documents: Geary BRT Fact Sheet

Presentation by Chester Fung, San Francisco County Transportation Authority

7. Director's Report: Update and report on the Office of Small Business and the Small Business Assistance Center, update on department programs, recent announcement from the Mayor, newly introduced policy matters, update on legislative matters, and announcements regarding small business activities. (Discussion Item)

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REGINA DICK-ENDRIZZI, EXECUTIVE DIRECTOR CHRISTIAN MURDOCK, ACTING COMMISSION SECRETARY

- President's Report: Allows the President to report on recent small business activities and make announcements that are of interest to the small business community. (Discussion Item)
- Vice President's Report: Allows the Vice President to report on recent small business activities and make announcements that are of interest to the small business community. (Discussion Item)
- 10. Commissioner Reports: Allows Commissioners to report on recent small business activities and make announcements that are of interest to the small business community. (Discussion Item)
- 11. Discussion and possible action for the Small Business Commission to conduct a Public Employee Performance Evaluation for Office of Small Business Executive Director Regina Dick-Endrizzi and whether to conduct the evaluation in Closed Session:
 - a. Public comment on all matters pertaining to this agenda item. (Discussion Item)
 - b. Consideration of any Motion to convene in Closed Session to evaluate the performance of Office of Small Business Executive Director Regina Dick-Endrizzi. (Discussion and Possible Action) Subject to adoption of such a Motion, the Small Business Commission shall enter a Closed Session. Otherwise, the item may be considered in Open Session.
 - c. CLOSED SESSION. Discussion and possible action regarding the performance evaluation of a public employee pursuant to California Government Code Section 54957(b) (Brown Act) and San Francisco Administrative Code Section 67.10(b) (Sunshine Ordinance). (Discussion and Possible Action Item)

 Upon completion of the business to be conducted in Closed Session, the Small Business Commission shall recomene in Open Session.
 - d. The Commission shall report any action taken during the closed session, pursuant to Government Code Section 54957.1(a) (Brown Act) and Administrative Code Section 67.12(b) (Sunshine Ordinance). (Discussion Item)
 - e. Consider a motion to disclose or not disclose any portion of the Closed Session that is not confidential under federal or state law, the Charter, or non-waivable privilege, pursuant to Administrative Code Section 67.12(a) (Sunshine Ordinance). The Commission may elect either to disclose no information or to disclose the information that a majority deems to be in the public interest. (Action Item)
- Discussion and possible action to update public employee evaluation and performance plan criteria for the
 Office of Small Business Executive Director for the period Fiscal Year 2013-2014. (Discussion and Possible
 Action)
- 13. General Public Comment: Allows members of the public to comment generally on matters within the Commission's purview, and suggest new agenda items for the Commission's future consideration. (Discussion Item)
- 14. New Business: Allows Commissioners to introduce new agenda items for future consideration by the Commission. (Discussion Item)
- 15. Adjournment. (Action Item)

Public comment will be taken before or during the Small Business Commission's consideration of each agenda item. Copies of explanatory documents and other related materials listed in this agenda are available for download by linking to the website agenda or www.sfgov.org/sbe, and are available for public inspection and/or copying at City Hall, Room 110. Please call Christian Murdock at (415) 534-6407 to make arrangements for pick up or review.

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Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that city operations are open for the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-6083. To obtain a free copy of the Sunshine Ordinance contact:

City Hall, Room 244 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4683 Office: (415) 554-7724 Fax: (415) 554-5163 E-Mail:

sotf@sfgov.org

Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website at www.sfgov.org.

Cell Phone and/or Sound-Producing Electronic Device Usage at Hearings

Effective January 21, 2001, the Board of Supervisors amended the Sunshine Ordinance by adding the following provision: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

Disability Access Policy

Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART Station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible MUNI lines serving the Veterans Building are 42 Downtown Loop and the #71 Haight/Noriega and the F line to Market and Van Ness and the Metro stations at Van Ness and Market and at Civic Center. For more information about MUNI accessible services call 923-6142. Accessible parking in the vicinity of the Veterans Building adjacent to Davies Hall and the War Memorial Complex. American Sign Language interprets and/or a sound enhancement system will be available upon request by contacting Milton Edelin at 558-6410 at least 72 hours prior to a hearing. Individuals with severe allergies, environmental illness, entitle accessibilities should call our accessibility hothine at (415) 554-8925 to discuss meeting accessibility not order to assist the city's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

Translation Services

Interpreters for languages other than English are available on request. Sign language interpreters are also available on request. For other accommodation, please call the Department of Human Services staff support representative at 557-5989 at least two business days before a meeting.

Lobbyist Ordinance

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by San Francisco Lobbyist Ordinance [Article II of the San Francisco Campaign and Governmental Conduct Code] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 25 Van Ness Ave., Suite 220, SF 94102 (415) 252-3100, FAX (415) 252-3112 and web site address a http://www.sfgov.org/ethics/.

Chemical Sensitivity

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical base products. Please help the City accommodate these individuals.

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REGINA DICK-ENDRIZZI, EXECUTIVE DIRECTOR CHRISTIAN MURDOCK, ACTING COMMISSION SECRETARY



LEGISLATIVE DIGEST

[Health Code - Restrictions on Sale and Use of Electronic Cigarettes]

Ordinance amending the Health Code to prohibit the use of electronic cigarettes where smoking is otherwise prohibited; require a tobacco permit for the sale of electronic cigarettes; prohibit the sale of electronic cigarettes where the sale of tobacco products is otherwise prohibited; and making environmental findings.

Existing Law

The Health Code currently bans smoking in a variety of settings, both enclosed and unenclosed spaces. The Health Department enforces the prohibitions through inspections and a hearing process. The Board of Appeals hears any appeals from enforcement action taken by the Health Department.

The Health Department also permits tobacco retail stores. Tobacco sales are prohibited in certain settings, including pharmacies and stores containing pharmacies.

Amendments to Current Law

The proposed ordinance amends the San Francisco Health Code by adding Article 19N (Sections 19N.1 – 19N.9) to prohibit the use of electronic cigarettes where smoking is otherwise prohibited; require a tobacco permit for the sale of electronic cigarettes; and prohibit the sale of electronic cigarettes where the sale of tobacco products is otherwise prohibited.

Background Information

The FDA has raised concerns that electronic cigarettes, including but not limited to flavored electronic cigarettes, can increase nicotine addiction among young people and may lead youth to try conventional tobacco products. A CDC study showed that in 2011 4.7% of all high schoolers had tried e-cigarettes and that in 2012 that number increased to 10.0% of all high schoolers. Electronic cigarettes may not be legally sold to minors in California. Electronic smoking devices and other unapproved nicotine delivery products have a high appeal to youth due to their high tech design and availability in child-friendly flavors like chocolate and strawberry.

Health authorities have also expressed concerns that the vapors released into the air through the use of an electronic cigarette present a danger to others who breathe them.

The use of an electronic cigarette in public is often indistinguishable from the use of traditional tobacco products, prompting confusion among members of the public wherever smoking is prohibited. Consequently, persons who smoke traditional tobacco products may be induced to do so in areas where smoking is illegal under the mistaken belief that smoking is legal in such areas, or that the ban on smoking in such areas is not being enforced.

Owners of establishments such as office buildings and restaurants encounter similar obstacles seeking to comply with the laws prohibiting smoking in certain locations. An owner may request that a patron stop smoking eigarettes in a restaurant only to have the patron demonstrate that it is an electronic eigarette. The Owner may also be placed in the position of having to confront and examine the eigarettes of any number of customers absent a prohibition on the use of electronic cigarettes where traditional eigarettes are banned.

2 3 Ordinance amending the Health Code to prohibit the use of electronic cigarettes where smoking is otherwise prohibited; require a tobacco permit for the sale of electronic 5 cigarettes; prohibit the sale of electronic cigarettes where the sale of tobacco products is otherwise prohibited; and making environmental findings. NOTE: Additions are single-underline italics Times New Roman; 8 deletions are strike-through italics Times New Roman. Board amendment additions are double-underlined; 9 Board amendment deletions are strikethrough normal. 10 11 Be it ordained by the People of the City and County of San Francisco: 12 Section 1. The Planning Department has determined that the actions contemplated in 13 14 this ordinance comply with the California Environmental Quality Act (California Public

[Health Code - Restrictions on Sale and Use of Electronic Cigarettes]

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Section 2. The San Francisco Health Code is hereby amended by adding Article 19N, Sections 19N.1 – 19N.9. to read as follows:

Resources Code Section 21000 et seq.), Said determination is on file with the Clerk of the

SEC. 19N.1 FINDINGS AND STATEMENT OF PURPOSE.

Board of Supervisors in File No. and is incorporated herein by reference.

(a) Electronic smoking devices, commonly referred to as electronic cigarettes or e-cigarettes, are battery-operated devices that may resemble cigarettes, although they do not contain tobacco leaf.

People who use electronic smoking devices inhale vaporized liquid nicotine extracted from tobacco, or inhale other vaporized liquids, created by heat through an electronic ignition system, and exhale the vapor in a way that mimics smoking.

1	(b) Electronic cigarettes are presently available for purchase and use in San Francisco.
2	(c) The FDA's Center for Drug Evaluation and Research, Office of Compliance purchased two
3	samples of electronic cigarettes and components from two leading brands. These samples included 18
4	of the various flavored, nicotine, and no-nicotine cartridges offered for use with these products. These
5	cartridges were obtained to test some of the ingredients contained in them and inhaled by users of
6	electronic cigarettes. The FDA's Center for Drug Evaluation and Research, Division of
7	Pharmaceutical Analysis (DPA) analyzed the cartridges from these electronic cigarettes for nicotine
8	content and for the presence of other tobacco constituents, some of which are known to be harmful to
9	humans, including those that are potentially carcinogenic or mutagenic. The DPA's analysis of the
10	electronic cigarette samples showed:
11	(1) The products contained detectable levels of known carcinogens and toxic chemicals to
12	which users could be exposed.
13	(2) Quality control processes used to manufacture these products are inconsistent or non-
14	existent.
15	(3) Tobacco-specific impurities suspected of being harmful to humans—anabasine, myosmine
16	and β-nicotyrine—were detected in a majority of the samples tested.
17	(4) Three different electronic cigarette cartridges with the same label were tested and each
18	cartridge emitted a markedly different amount of nicotine with each puff. The nicotine levels per puff
19	ranged from 26.8 to 43.2 mcg nicotine/100 mL puff.
20	(d) The Surgeon General has found that the chemical nicotine is a powerful pharmacologic
21	agent that acts in the brain and throughout the body and is highly addictive. The United States
22	Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or
23	heroin and is a highly toxic substance. Use of nicotine in any form may cause or contribute to
24	cardiovascular disease, complications of hypertension, reproductive disorders, cancers of many types
25	and gastrointestinal disorders, including peptic ulcer disease and gastro esophageal reflux.

(e) The FDA has raised concerns that electronic cigarettes, including but not limited to
flavored electronic cigarettes, can increase nicotine addiction among young people and may lead youth
to try conventional tobacco products. A CDC study showed that in 2011 4.7% of all high schoolers had
tried e-cigarettes and that in 2012 that number increased to 10.0% of all high schoolers. Electronic
cigarettes may not be legally sold to minors in California. Electronic smoking devices and other
unapproved nicotine delivery products have a high appeal to youth due to their high tech design and
availability in child-friendly flavors like cotton candy, bubble gum, chocolate chip cookie dough and
cookies and cream milkshake.

- (f) Health authorities have also expressed concerns that the vapors released into the air through the use of an electronic cigarette present a danger to others who breathe them.
- (g) The use of an electronic cigarette in public is often indistinguishable from the use of traditional tobacco products, prompting confusion among members of the public wherever smoking is prohibited. Consequently, persons who smoke traditional tobacco products may be induced to do so in areas where smoking is illegal under the mistaken belief that smoking is legal in such areas, or that the ban on smoking in such areas is not being enforced.
- (h) Owners of establishments such as office buildings and restaurants encounter similar obstacles seeking to comply with the laws prohibiting smoking in certain locations. An owner may request that a patron stop smoking cigarettes in a restaurant only to have the patron demonstrate that it is an electronic cigarette. The Owner may also be placed in the position of having to confront and examine the cigarettes of any number of customers absent a prohibition on the use of electronic cigarettes where traditional cigarettes are banned.
- (i) The agencies charged with enforcing compliance in enclosed and unenclosed spaces will similarly have to devote considerable time and resources determining the individuals smoking electronic cigarettes versus traditional cigarettes.

1	(j) Some agencies in San Francisco have already adopted restrictions on e-cigarette usage
2	including San Francisco General Hospital, Laguna Honda Hospital, AT&T Ballpark, University of
3	California-San Francisco, San Francisco Department of Public Health and the San Francisco
4	International Airport.
5	SEC. 19N. 2 DEFINITIONS.
6	(a) "Director" means the Director of Public Health or his or her designee.
7	(b) "Electronic Cigarette" or "E-cigarette" means any device with a heating element, a
8	battery, or an electronic circuit that provides nicotine or other vaporized liquids to the user in a
9	manner that simulates smoking tobacco.
10	(c) "Establishment" means any store, stand, booth, concession or other enterprise that engages
11	in the retail sales of tobacco products and/or electronic cigarettes.
12	SEC. 19N.3 TOBACCO SALES PERMIT REQUIRED.
13	(a) An establishment must have a valid tobacco sales permit obtained pursuant to Health Code
14	Section 1009.52 to sell electronic cigarettes.
15	(b) The Director may enforce this section pursuant to Articles 19 et seq. of the Health Code
16	including but not limited to Article 19H.
17	SEC. 19N.4 PROHIBITING THE USE OF ELECTRONIC CIGARETTES WHEREVER
18	SMOKING OF TOBACCO PRODUCTS IS BANNED.
19	(a) The use of electronic cigarettes is prohibited wherever smoking of tobacco products is
20	prohibited by law including Articles 19 et seq. of the Health Code.
21	(b) The Director may enforce this section pursuant to Articles 19 et seq. of the Health Code
22	including but not limited to the Articles prohibiting smoking in certain spaces or areas.
23	SEC. 19N.5 PROHIBITING THE SALE OF ELECTRONIC CIGARETTES WHEREVER
24	THE SALE OF TOBACCO PRODUCTS IS PROHIBITED.
25	

1	a) The sale of electronic cigarettes is prohibited wherever the sale of tobacco products is
2	prohibited by law, including as prohibited in Articles 19 et seq. of the Health Code.
3	b) The Director may enforce this section pursuant to Articles 19 et seq. of the Health Code
4	including but not limited to Article 19J.
5	SEC. 19N.6 CITY UNDERTAKING LIMITED TO PROMOTION OF GENERAL
6	WELFARE.
7	In enacting and implementing this ordinance, the City is assuming an undertaking only to
8	promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
9	obligation for breach of which it is liable in money damages to any person who claims that such breach
0	proximately caused injury.
1	SEC. 19N.7 RULES AND REGULATIONS.
2	The Director, after a noticed public hearing, may adopt rules and regulations to carry out the
3	provisions of this Article. Such rules and regulations shall take effect 15 days after the public hearing
4	Violation of any such rule or regulation may be grounds for administrative or civil action against the
5	permittee pursuant to this Article.
6	SEC. 19N.8 PREEMPTION.
7	(a) Nothing in this Article shall be interpreted or applied so as to create any power, duty or
8	obligation in conflict with, or preempted by, any Federal or State law. Even if not preempted by
9	Federal or State law, the provisions of this Article shall not apply if the Federal or State law is more
0	restrictive.
21	//
22	//
23	//
24	//
25	

1	(b) This Article shall not apply to any FDA-approved product marketed for therapeutic
2	purposes.
3	(c) This Article shall not affect any laws or regulations regarding medical cannabis.
4	SEC. 19N.9 SEVERABILITY.
5	If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Article o
6	any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of
7	competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining
8	portions of this Article or any part thereof. The Board of Supervisors hereby declares that it would
9	have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof
10	irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses
11	or phrases be declared unconstitutional, or invalid, or ineffective.
12	
13	Section 3. Effective Date. This ordinance shall become effective 30 days after
14	enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
15	ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Boa
16	of Supervisors overrides the Mayor's veto of the ordinance.
17	
18	APPROVED AS TO FORM: DENNIS J. HERRERA, City Attorney
19	
20	By: Aleeta M. Van Runkle
21	Deputy City Attorney
22	
23	

24 25

The agency staff-recommended design emerges from an extensive, multi-year technical assessments, and feedback. with multiple rounds of discussion, community and analytical process In 2012 alone, the project hosted three large community meetings; made presentations to more than

30 community groups including neighborhood associations, appointed

commissions, merchant groups, and advocacy organizations; and conducted extensive surveys of Geary businesses and their customers.

E HAVE HEARD	WHAT WE HAVE DONE
D AREA Concerns about parking supply, construction	Introduced and selected design variant consolidating local and BRT stops in Richmond area, reducing parking removal
	Developed phased construction plan to balance needs to maintain access and minimize duration
AREA: Preference for BRT	Selected side bus-only lanes for Masonic area with
urface rather than in trench sonic	surface stops

project's funding gap.

INNER GEARY: Interest in more

service, reducing variability by 20%.

Parking along the Corridor

Pedestrian Access and Safety

for the first certain control and an experimentally of the first certain control and an experiment, policies the certain certa

improved to several these diseases the red beautiful ment in beautiful mental management and several time of limits and several mental mental

Making it safet to walk to the bus stops is a key component of the project; improvements include new corner bulbs to reduce crossing distances, reductions in conflicts with left-turning webicies, and improved traffic



Explored un-crossable bus lane designs; provided intersection that soot improvements; extended bus-only lanes

Summary of Key Benefits and Trade-Offs

Confedencies, the spirit recommended primariles will provide to the confedencies of th

In impossing testing the and reliability the Osary Brit serves
to expected there are ideality that Osary and osary
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the osary osary

mproving travel time and reliability, the Geary BRT service

In addition, potential strategies to replace some parking may be available for certain locations, such as converting nearby parallel parking to diagonal

SAN FRANCISCO COUNTY TRANSPORTATION AUTHORITY

considered (\$130 million to \$350 million).

expected from the Prop K sales tax, \$2.5 million from adjacent land development Administration. The Mayor's T2030 Task revenues for the project, one of multiple options being explored to help fill the

(California Pacific Medical Center), and Force recommendation also includes up \$75 million from the Federal Transit to \$85 million in potential new local

alternative is approximately \$240 million, a figure in the middle of the range for

The cost of the staff-recommended all BRT alternatives that have been Planned funding of \$38 million is

Sost and Funding

SAN FRANCISCO COUNTY TRANSPORTATION AUTHORITY



woject design. The process, incorporating nutriple rounds of previous technical analysis and

consensus on the preferred

Select a Preferred Alternative he Geary BRT project team has initiated the

Project Undate: Process to

ommunity input, entails the following steps going with the community

• Summer 2014: Identification of Recommended
Alternative in Draft Environmental Document

results, including staff-recommended altern

· Fall/Winter 2013/14: Sharing of evaluation

Francisco, Over 50,000 daily transit trips rely on Geary bus service, but buses The Geary Corridor (which includes Geary Boulevard, Geary Street and O'Farrell Street) is the most heavily used surface transit corridor in San To improve transit operations and the overall street environment, the erving the corridor are often slow, unreliable and crowded.

Exclusive bus lane, transit signal priority, all-door boarding, new low-floor buses

BENERT: Improved bus performance

25% travel time savings 20% reliability improvemen 10-20% ridership increase

 Winter 2014/15: Finalization of Locally Preference Alternative in Final Environmental Document Staff-Recommended Alternative

. Fall 2014: Public comment period Features and Benefits of

Transportation Authority and the San Francisco Municipal Transportation Agency (SFMTA) propose to implement a bus rapid transit (BRT) system for the

Geary corridor. The Geary BRT project's goals are to: Improve bus travel times and reliability

ligh-visibility crosswalk markings and signing.

with left-turning vehicles A 1000 B

Compared to 'no-build' conditions, in the segments of the confider where BIT improvements are proposed

improve pedestrian safety and access to transit

New medians with new lighting, landscaping and sees, high-amenity stations · Attend Geary BRT CAC meetings. Email us at gearybrt@sfcta.org. improve transit service; it will also bring streetscape and landscape enhancements for Geary's walking, residential, and commercial environments, a benefit even for those who don't ride transit. In recent years, successful BRT systems in other manner and with versatile implementation, allowing improvements to be phased BRT works by giving buses their own travel lane, operating the traffic signals to over time and for different segments of the full corridor-a key advantage for give buses the green light more of the time, and enabling passengers to board cities in the US and beyond shown high benefits to transit performance and the complex and diverse conditions along Geary, Finally, BRT will not just and disembark faster. BRT provides these improvements in a cost-effective · Enhance neighborhood livability and community vitality

Project Timeline Environmental Analysis 2013

 Call 415.522.4804 to arrange a presentation to your organization or to get more details on the project or meeting schedule.

See www.gearybit.org/meetings for schedule.

SENERT: Enhanced, Complete-Streets en-

How to Stay Involved

2016

2018

Preliminary Engineering and Final Design Market-to-Van Ness Colonized Lanes

Fact Sheet

Community Input

WHAT W

Proposed boulevard-style design and conducted needed subsurface investigations to be considered when fill project is ready to more forward rea with FILLMORE AREA: Interest in filling Geary underpass at Fillmore Street

Transit Travel Time and Reliability

or perpendicular parking.

SEMTA

1455 Market Street, 22nd Floor, San Francisco, CA 94103 PROJECT PROMI: 415:593.1655

PROJECT WEB SITE: WWW.gearybrt.org PROJECT EMAIL: gearybrt@sfcta.org

S11 Telephone 311 Free language assistance

feat for project web page

Staff Recommended Alternative seamon states



Provided 3.0% transit line senings and high railability with seperation from parking and ledging. Speeds have for the most indeed, such also and list. Providences most on since provide, installing was weedlings with lighting and Providences, workfelp preferance receiving section in providences, including Landscoping, workfelp preferance receiving section improvements, including bills outst not rediction in less turn confiles. 27th Ave to Paim: Center Bus Lanes, Consolideted Local-BRT Stops

3 27th Ave to Palm

RICHMOND AREA

2 35th Ave to 27th Ave

1. 48th Ave to 35th Ave



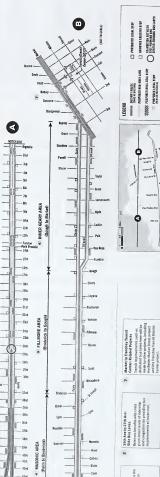












Treatments not needed, given it for levels of traffic congestion and transit ridership. 48th Ave to 35th Ave. No Bus Treatments



SMALL BUSINESS COMMISSION DRAFT MEETING MINUTES



Monday, February 24, 2014
2:00 P.M.
CITY HALL, ROOM 400
1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 GOVERNMENT

SF 552 *2 2124/14 dinft

SMALL BUSINESS COMMISSIONERS

Stephen Adams, President Monetta White, Vice President Kathleen Dooley, Mark Dwight William Ortiz-Cartagena, Irene Yee Riley MAR 21 2014

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1. Call to order and roll call.

The meeting was called to order at 2:04 PM. Commissioners Adams, Dooley, Ortiz Cartagena, Yee Riley, and White were present. Commissioner Dwight arrived late at approximately 2:08 PM during consideration of Item 4. One seat on the Commission was vacant.

2. General Public Comment. (Discussion Item)

General Public Comment was called for and no members of the public requested to speak.

3. Approval of the February 10, 2014 regular meeting minutes. (Action Item)

Explanatory Documents: Draft February 10, 2014 regular meeting minutes

Motion: Commissioner Yee Riley motioned to adopt the meeting minutes.

2nd: Commissioner Dooley

Aye: Adams, Dooley, Ortiz Cartagena, Yee Riley, and White

Nay: None

Absent: Dwight

- 4. Presentation of a Small Business Commission Certificate of Honor recognizing Commissioner Luke O'Brien for more than four years of service on the Commission. (Discussion Item) Commissioner Adams remarked on former Commissioner O'Brien's contributions and presented him with a Certificate of Honor. Commissioners then took a photo with O'Brien.
- Discussion and possible action to make recommendations to the Board of Supervisors on Board of Supervisors
 File No. 131208 [Health Code Restrictions on Sale and Use of Electronic Cigarettes]. (Discussion and Possible
 Action Item)

Explanatory Documents: BOS File No. 131208; BOS File No. 131208 Legislative Digest

Victor Lim, Legislative Aide to Supervisor Eric Mar; Derek Smith, Department of Public Health; Dr. Lucy Popova, University of California, San Francisco; and, Avani Desai, Youth Leadership Institute, presented. Mr. Lim explained the provisions of the ordinance and its likely impacts, commenting that 90% of electronic

SMALL BUSINESS COMMISSION 1 Dr. Carlton B. Goodlett Place, Room 110 San Francisco, CA 94102 415.554.6134

cigarette (e-cigarette) sellers already have tobacco licenses. Mr. Smith described various e-cigarette products, including the many flavors and formulations in which e-cigarettes are sold. He indicated that the tobacco industry has already admitted e-cigarettes are a tobacco product. Dr. Popova presented research results indicating negative health impacts from e-cigarette use, and increasing usage among youth in recent years. Ms. Desai described various e-cigarette manufacturer advertising materials showing their similarities to tobacco advertisement of years past.

Several commissioners asked questions of the presenters:

Commissioner Yee Riley asked where people can buy e-cigarettes and what are the general prices? She also asked what outreach has been done to individuals and businesses? Mr. Lim responded the products, but convenience stores, gas stations, and specialty vaporizer stores frequently sell e-cigarettes. Mr. Smith indicated that some bulk retailers sell large-quantity packages of disposable e-cigarettes for approximately \$165 per 27 e-cigarettes. Disposable versions are sold elsewhere for approximately \$6-7 per unit. Lower cost disposable versions tend to be more attractive to youth users (under 18 years of age). Rechargeable versions sell from \$50-70 per unit. Mr. Smith also said the Department of Public Health has reached out to BART and SFMTA, and if the legislation is enacted, would conduct an educational campaign.

Commissioner Ortiz-Cartagena inquired whether this legislation would apply to non-nicotine versions of ecigarettes as well. Mr. Smith confirmed that it would, as the language is specific to the device components and function rather than the presence of nicotine.

Commissioner Dooley expressed her support for regulation, with Commissioners Adams and Dwight commenting that use seems to be growing within bars and that the odor is strong. Commissioner Ortiz-Cartagena thanked the presenters for their clear linkage of the legislation with the potential small business impacts.

Public Comment was called for and no members of the public requested to speak.

Motion: Commissioner Dooley motioned to recommend approval of the legislation as drafted.

2nd: Commissioner Dwight

Aye: Adams, Dooley, Dwight, Ortiz Cartagena, Yee Riley, and White

Nay: None

Absent: None

6. Presentation on the Geary Bus Rapid Transit (BRT) project. (Discussion Item)

Explanatory Documents: Geary BRT Fact Sheet

Chester Fung, San Francisco County Transportation Authority (SFCTA), presented. He clarified that the project is currently in the environmental review phase, with an environmental review document currently under development, and estimated completion in late-2014. Since his last presentation in 2012, significant progress has been made in adapting alternative designs that respect resident and business concerns expressed earlier in the process, while also accommodating fiscal and engineering limitations facing the project. A key concern that has been better addressed in the latest proposal is pedestrian safety improvements. The SFCTA is soliciting feedback on the staff-proposed alternative design which is a lead contender among those designs currently under consideration.

Several commissioners commented on the proposed project and asked questions of the presenter:

Commissioner Dooley expressed one concern among the community is the ability of small businesses to deather the construction phase. Many lack resources to survive the diminished business associated with major construction projects. She asked what may be different about this project to support small businesses?

Mr. Fung stated that research has shown a primary business concern during construction is clear

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REGINA DICK-ENDRIZZI, EXECUTIVE DIRECTOR CHRISTIAN MURDOCK, ACTING COMMISSION SECRETARY

2

communication to the public that the businesses remain open. This project will incorporate sufficient communication in that regard.

Commissioner White commented that the current plan shows the Fillmore segment of the project is not proposed to be filled-in. She asked whether that is subject to change?

Mr. Fung explained that extensive engineering studies evaluated various alternatives. Some in the community want the underpass filled, while others do not. While filling it in is under consideration as an alternative, the SFCTA Board of Directors has advised staff to pursue the quickest way to implement the project, which means further study of filling the underpass is currently on hold.

Commissioner White also asked how many parking spaces would be lost in the staff alternative, and what has been the community reaction to the latest plan?

Mr. Fung confirmed there will be parking losses along Fillmore and Masonic, but the SFCTA is aware of Fillmore community concern to preserve as much parking as possible. Overall, community response has been positive.

Commissioner Dooley noted that other major construction projects have led to construction crews and equipment parking in metered parking dedicated for business customers, causing major business impacts. What will be done to reduce occurrences of this during construction?

Mr. Fung said the SFCTA is aware of this, and measures to prevent future instances of crews and equipment parking in businesses' metered spaces can be built into construction and implementation plans. He said it may also be possible to temporarily restripe certain pavement sections to create more parking.

Director Dick-Endrizzi inquired about the project segment from Van Ness Avenue to Market Street, and whether parking loss would occur only on one side of the street? She also asked about outreach and study on business deliveries during and after construction.

Mr. Fung responded that no parking loss would occur where dedicated bus lanes already exist. Deliveries were studied during business surveys, and in most cases delivery areas can be shifted along the same block, or relocated nearby around the corner from a business.

Public Comment was called for and no members of the public requested to speak.

No action was taken.

7. Director's Report. (Discussion Item)

Director Dick-Endrizzi presented a verbal report.

8. President's Report. (Discussion Item)

None

9. Vice President's Report. (Discussion Item)

Commissioner White reported a successful outcome of the December 2013 Joint SFMTA-SBC meeting. The SFMTA has assisted the business owner along Fillmore that testified regarding the undesirable placement of a bus shelter. The SFMTA has relocated the bus shelter to a more suitable location, satisfying the business owner. Commissioner White expressed her appreciation of SFMTA's responsiveness to this small business concern.

10. Commissioner Reports. (Discussion Item)

Commissioner Yee Riley reported her attendance last Saturday at a participatory budgeting event held by Supervisor Yee in District 7. Up to \$250,000 is available for pedestrian safety improvements, while up to \$100,000 is available for general projects. Small businesses and residents are invited to submit suggestions for projects. Another event will be held on March 5 at Commodore Sloat Elementary School.

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- 11. Discussion and possible action for the Small Business Commission to conduct a Public Employee Performance Evaluation for Office of Small Business Executive Director Regina Dick-Endrizzi and whether to conduct the evaluation in Closed Session:
 - a. Public comment on all matters pertaining to this agenda item. (Discussion Item)

Public Comment was called for and no members of the public requested to speak.

 Consideration of any Motion to convene in Closed Session to evaluate the performance of Office of Small Business Executive Director Regina Dick-Endrizzi, (Discussion and Possible Action)

Motion: Commissioner Dwight motioned to convene in Closed Session.

2nd: Commissioner Dooley

Aye: Adams, Dooley, Dwight, Ortiz Cartagena, Yee Riley, and White

Nav: None

Absent: None

c. CLOSED SESSION. Discussion and possible action regarding the performance evaluation of a public employee pursuant to California Government Code Section 54957(b) (Brown Act) and San Francisco Administrative Code Section 67.10(b) (Sunshine Ordinance). (Discussion and Possible Action Item)

The Commission convened in Closed Session at $3:33\ PM$, and conducted business in accordance with the agenda.

d. The Commission shall report any action taken during the closed session, pursuant to Government Code Section 54957.1(a) (Brown Act) and Administrative Code Section 67.12(b) (Sunshine Ordinance). (Discussion Item)

The Commission reconvened in Open Session at 3:49 PM. Commissioner Adams reported action taken during the Closed Session.

Motion: Commissioner Yee Riley motioned to continue Item 11 to the Small Business Commission

meeting of March 10, 2014.

2nd: Commissioner Dwight

Ave: Adams, Dooley, Dwight, Ortiz Cartagena, Yee Riley, and White

Nav: None

Absent: None

e. Consider a motion to disclose or not disclose any portion of the Closed Session that is not confidential under federal or state law, the Charter, or non-waivable privilege, pursuant to Administrative Code Section 67.12(a) (Sunshine Ordinance). The Commission may elect either to disclose no information or to disclose the information that a majority deems to be in the public interest. (Action Item)

The Commission acted to not disclose any portion of the Closed Session.

Motion: Commissioner Adams motioned to not disclose any portion of the Closed Session.

2nd: Commissioner Dwight

Ave: Adams, Dooley, Dwight, Ortiz Cartagena, Yee Riley, and White

SMALL BUSINESS COMMISSION 1 Dr. Carlton B. Goodlett Place, Room 110 San Francisco, CA 94102 415,554,6134

Nay: None

Absent: None

Discussion and possible action to update public employee evaluation and performance plan criteria for the
Office of Small Business Executive Director for the period Fiscal Year 2013-2014. (Discussion and Possible
Action)

Director Dick-Endrizzi explained the proposed evaluation and performance plan criteria contained in the commissioners' packets. Pages 2, 3, and 4 include criteria on all department head evaluations, and Page 5 is a department-specific list of performance measures. She informed the commissioners that no action is necessary at this time if the commissioners desire more time to review the proposed plan.

Public Comment was called for and no members of the public requested to speak.

No action was taken.

13. General Public Comment. (Discussion Item)

Public Comment was called for and no members of the public requested to speak.

14. New Business. (Discussion Item)

Commissioner Adams reminded commissioners about Ethics and Sunshine Ordinance training occurring the following evening.

Commissioner Yee Riley requested a presentation regarding the new "Smart Biz" loan program.

15. Adjournment. (Action Item)

Motion: Commissioner Dwight motioned to adjourn.

2nd: Commissioner Dooley

Ave: Adams, Dooley, Dwight, Ortiz Cartagena, Yee Riley, and White

Nay: None

Absent: None

The meeting adjourned at 3:58 PM.

SMALL BUSINESS COMMISSION 1 Dr. Carlton B. Goodlett Place, Room 110 San Francisco, CA 94102 415.554.6134









City and County of San Francisco



Notice of Special Meeting

Annual Retreat of the SMALL BUSINESS COMMISSION

Wednesday, March 5, 2014

EPICENTER
245 Third Street
San Francisco, CA 94103

FEB 1 4 2014

10:00 AM - 5:00 PM

PUBLIC ATTENDANCE WELCOMED

GENERAL NATURE AND PURPOSE OF THE MEETING

To present activities and accomplishments of the Small Business Commission and Office of Small Business during the preceding year, and to identify policy and program priorities for the Commission and staff in the following year.

MEETING AGENDA

A detailed meeting agenda shall be posted within 72 hours of this meeting.

COMMISSIONERS

Stephen Adams, President Monetta White, Vice President Kathleen Dooley Mark Dwight William Ortiz-Cartagena Irene Yee Riley

OFFICE OF SMALL BUSINESS

1 DR. CARLTON B. GOODLETT PLACE, ROOM 110 SAN FRANCISCO, CALIFORNIA 94102

(415) 554-6134





City and County of San Francisco



Notice of Meeting & Agenda Special Meeting & Annual Retreat of the SMALL BUSINESS COMMISSION

Wednesday, March 5, 2014 EPICENTER 245 Third Street San Francisco, CA 94103

10:00 AM - 5:00 PM

COMMISSIONERS:

Stephen Adams, President Monetta White, Vice President Kathleen Dooley Mark Dwight William Ortiz-Cartagena Irene Yee Rilev

STAFF

Regina Dick-Endrizzi: Director Christian Murdock and Martha Yanez: Staff DOCUMENTS DEPT

GOVERNMENT

FEB 2 8 2014

SAN FRANCISCO PUBLIC LIBRARY

- 1. Roll Call for the March 5, 2014 Special Meeting and Retreat of the Small Business Commission.
- General Public Comment Allows members of the public to comment generally on matters within the Commission's purview, as well as to suggest new agenda items for the Commission's future consideration. (Discussion Item)
- Introduction and overview of retreat by Commission President and Director and review of Commissioners' goals and objectives. (Discussion Item)
- 4. Review of the Good Government Guide and Rules of Order. (Discussion and Possible Action Item)
- 5. Review of Commission's accomplishments to date. (Discussion Item)
- Review 2013/2014 Strategic Plan and Controller Performance Goals. (Discussion and Possible Action Item)
- Update on the Business Portal and Office of Small Business (OSB) Website/Branding. (Discussion and Possible Action Item)
- 8. Break
- 9. Review of OSB Projects List. (Discussion and Possible Action Item)
- Presentation on the OSB's Small Business Assistance Center including services and functions, number of clients served, client demographics, business trends and budget. (Discussion and Possible Action Item)
- Identify key issues facing the San Francisco's Small Businesses for 2014 and 2015. (Discussion and Possible Action Item)
- 12. Review of Commission Committees, Committee Projects, and Assignments to the Committees. (Discussion and Possible Action Item)
- Develop a Strategic Plan and Action Plan for the remainder of Fiscal Year (FY) 2013/2014 and for 2014/2015. (Discussion and Possible Action Item)
- Presentation and Commission Guidance on FY 2014/2015 OSB Budget. (Discussion and Possible Action Item)
- 15. New Business. (Discussion Item)
- 16. Adjournment. (Action Item)

Public Comment will be taken before or during the Small Business Commission's consideration of each agenda item. Speakers are requested but not required to complete a speaker card and state their names, which will help ensure proper spelling of speakers' names in the written record of the meeting.

Explanatory Documents: Copies of proposed legislation listed in this agenda, and other related materials received by the SBC after the posting of the agenda, are available for public inspection and/or copying at City Hall Room 110. Please call (415) 554-6134 to make arraneements for pick up or review.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that city operations are open for the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-6083. To obtain a free copy of the Sunshine Ordinance Task Force at 554-6083. To obtain a free copy of the Sunshine Ordinance Task.

Frank Darby, Administrator City Hall, Room 244 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4683 Office: (415) 554-5163 E-Mail: sot@sfgov.org

Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website at www.sfgov.org.

Cell Phone and/or Sound-Producing Electronic Device Usage at Hearings

Effective January 21, 2001, the Board of Supervisors amended the Sunshine Ordinance by adding the following provision: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

Disability Access Policy

Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART Station is the Montgomery Street station located at the intersection of Market and Second Streets. Accessible MUN1 lines directly serving the meeting location include the 30 Stockton and 45 Union/Stockton. Nearby stops are available on the 12 Folsom/Pacific and 14 Mission. The nearest MUN1 Metro stations is the Montgomery Station. For more information about MUN1 accessible services call (415) 923-6142. Accessible parking in the vicinity is available immediately adjacent to the meeting location in the Moscone Center Garage. American Sign Language interprets and/or a sound enhancent system will be available upon request by contacting Milton Edelin at (415) 558-6410 at least 72 hours prior to a hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at (415) 554-48925 to discuss meeting accessibility.

Chemical Sensitivity

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical base products. Please help the City accommodate these individuals.

Translation Services

Interpreters for languages other than English are available on request. Sign language interpreters are also available on request. For other accommodation, please call the Department of Human Services staff support representative at (415) 557-5989 at least two business days before a meeting.

Lobbyist Ordinance

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by San Francisco Lobbyist Ordinance [Article II of the San Francisco Campaign and Governmental Conduct Code] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 30 Van Ness Ave., Suite 3900, SF 94102 (415) 581-2300, FAX (415) 581-2317 and web site address at http://www.sfgov.org/ethics/.





SMALL BUSINESS COMMISSION DRAFT SPECIAL MEETING MINUTES ANNUAL RETREAT



Wednesday, March 5, 2014 10:00 A.M. EPICENTER 245 Third Street, San Francisco, CA 94103

GOVERNMENT
DOCUMENTS DEPT

SMALL BUSINESS COMMISSIONERS

Stephen Adams, President Monetta White, Vice President Kathleen Dooley, Mark Dwight William Ortiz-Cartagena, Irene Yee Riley MAR 2 1 2014

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1. Roll Call for the March 5, 2014 Special Meeting and Retreat of the Small Business Commission.

The meeting was called to order at 10:18 AM. Commissioners Adams, Dwight, Ortiz-Cartagena, and White were present. Commissioner Dooley arrived late at approximately 10:19 AM during consideration of Item 3. Commission: Yee Riley was absent. One seat on the Commission was vacant.

Staff present included Office of Small Business Director Regina Dick-Endrizzi and Acting Commission Secretary Christian Murdock. Small Business Assistance Center Supervisor Martha Yanez arrived later in the meeting during Item 8.

2. General Public Comment. (Discussion Item)

General Public Comment was called for and no members of the public requested to speak.

 Introduction and overview of retreat by Commission President and Director and review of Commissioners' goals and objectives. (Discussion Item)

Commissioner Adams provided introductory remarks and welcomed attendees to the annual Commission retreat. Director Dick-Endrizzi also extended welcomes and made introductory remarks. She asked commissioners to express their priorities for the coming years as each item is discussed, and communicated that there is more work the business community wants the Office of Small Business to do than there is staff and time available to accomplish them.

Commissioner Dooley shared her belief that the City will face unique challenges in the coming year. These will include workforce housing, and developing ways to ensure all-around affordability, such as concepts that could extend loans from the City to businesses to help them purchase their buildings. Commissioner Adams agreed, describing differing perceptions of current rents between tenants and landlords.

Commissioner Dwight said that small businesses will gentrify along with the rest of the population. The gentrification phenomenon will increase pressure on "mom-and-pop" small businesses. The Commission will be called upon to protect "old" small business interests, perhaps at the expense of "new" small businesses. Many proposals will be anti-competitive, and he wonders how the Commission will posture itself given the challenges it will face and the limited ability it has to address the particular challenges of the moment.

Commissioner Adams offered that the minimum wage discussion will be hugely impactful for small businesses in the coming year. He also stated that the small business challenges extend beyond merchants to manufacturers, professional services, and others.

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Commissioner Dwight remarked that any wage increases stemming from an increased minimum wage will flow out of the city. Unlike New York, which has boroughs that provide layers of varying affordability yet still retains centralized political and taxation authority, San Francisco is isolated in those regards, and will garner few benefits from the increased wages. Commissioner Adams added that change in this regard is inevitable, but what is important is how the change is managed.

Commissioner Dooley stated that fees being charged to technology companies locating in the city are not commensurate with their demands on City services. Also, production, distribution, and repair (PDR) spaces are under attack in the South of Market (SoMa) neighborhood. Planning Department policies continue to pressure these spaces for office conversions. Commissioner Dwight added that taxes and wages will also pressure PDR space.

Commissioner White noted that any significant increase in minimum wage will have a detrimental effect on businesses and other groups that hire persons transitioning from the criminal justice system, substance abuse treatment, homelessness, and other challenging situations.

Director Dick-Endrizzi framed the commissioners' inputs by noting that the issues identified are significant, and there are only so many that OSB staff will be able to effectively influence. She asked commissioners to think of how they will want staff to engage on each of the issues, from limited to more robust involvement, keeping in mind there will still be other demands on staff time such as tracking and handling of levislation.

Public Comment was called for and no members of the public requested to speak.

4. Review of the Good Government Guide and Rules of Order. (Discussion and Possible Action Item)

Zachary Porianda, Deputy City Attorney, introduced himself. Mr. Porianda is the new Deputy City Attorney assigned to support the Small Business Commission. He provided an overview of principles of good government.

Commissioner Dooley asked about situations in which a commissioner must recuse herself or himself. Mr. Porianda explained that there are several tests used to determine whether a potential conflict of interest requiring recusal exists, and that he is always available to help commissioners make that determination.

Next, Acting Commission Secretary Christian Murdock provided the Commission an overview of current Rules of Order governing the Commission's actions, as well as a list of certain items staff may present in the near future as amendments to the Rules of Order.

Commissioner Dooley asked staff to propose term limits for the Offices of President and Vice President. She also asked staff to research whether other commissions' rules of order contain provisions to alternate officer positions among Mayoral and Board appointees, though she proposed this item as informational only, not as an amendment to the Commission's Rules of Order.

Mr. Murdock indicated he would take his list of proposals as well as those points raised at the meeting and bring them forward at a future meeting in accordance with the amendment procedures contained in the Commission's Rules of Order.

Public Comment was called for and no members of the public requested to speak.

5. Review of Commission's accomplishments to date. (Discussion Item)

Director Dick- Endrizzi presented, and noted a variety of Commission and staff accomplishments during the preceding year. These included the Small Business Priority Processing Pilot Program (SB4P), streamlining of San Francisco Unified School District impact fee payment, and Family Friendly Workplace Ordinance amendments.

Commissioner Dooley commented that she would add the Commission's and staff's work on Americans with Disabilities Act (ADA) issues as an accomplishment. She also added that many small businesses are unaware of the SB4P, and wondered how businesses are informed of its availability. Director Dick-Endrizzi responded that

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the priority method of notification is at the Planning Department counter.

Public Comment was called for and no members of the public requested to speak.

Review 2013/2014 Strategic Plan and Controller Performance Goals. (Discussion and Possible Action Item)

Director Dick-Endrizzi presented. She explained that many of the goals in the Commission's current strategic plan stemmed from a 2010 audit by the Budget and Legislative Analyst's Office. Since then, the Commission and Office of Small Business have developed more formal processes and structures, and have accomplished most of the goals developed in the wake of the audit. As a result, the Commission may consider moving past them and developing its own goals and priorities.

Commissioner Ortiz- Cartagena expressed his frustration with the lack of clear information provided by the Office of Labor Standards Enforcement (OLSE) in terms of the interaction of the Affordable Care Act (ACA) with the Health Care Security Ordinance (HCSO). The lack of clear guidance being provided will harm many businesses, and he urged OSB staff to be proactive in seeking additional OLSE guidance as well as possibly pursuing an amnesty period. Commissioners Adams and White agreed, stating there are currently no effective resources from the City to help businesses navigate their ACA-HCSO compliance. Instead, businesses are relying solely on benefits consultants.

Public Comment was called for and no members of the public requested to speak.

Update on the Business Portal and Office of Small Business (OSB) Website/Branding. (Discussion and Possible Action Item)

Jane Gong, Department of Technology, presented. She described business portal development activities to-date.

Commissioner Dwight asked whether an outside corporation or entity could provide financial or other support for portal development, or whether the funding must come from City Hall. He also asked about projected costs for Phases II and III.

Ms. Gong noted that Fiscal Year (FY) 20115 expenditures are estimated at \$881,000 and FY 2016 at \$1,200,000.

Commissioner Dooley commented that the portal should have a frequently asked questions (FAQ) page.

Commissioner Dwight further commented that friendly and easy navigation are essential to the business portal.

Director Dick-Endrizzi next described the current and future vision for the Office of Small Business website. With development of an information-rich business portal, the purpose of the OSB website will change to a more service-oriented function. A consultant may be hired to advise on how to reformulate the Office's website in the most effective manner.

Commissioner Dwight stated that in his opinion, rebranding is not necessary. Maybe a new logo would be nice, but rebranding is a much broader effort.

Commissioners Adams, Dwight, and White supported keeping the current logo and changing the text to "Office of Small Business" from "Small Business Commission."

Public Comment was called for and no members of the public requested to speak.

8. Break

The Commission recessed from 12:34 PM to 1:16 PM to each lunch. The Acting Commission Secretary reminded commissioners before the recess that they are to refrain from discussions of Commission business until the meeting reconvenes.

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9. Review of OSB Projects List. (Discussion and Possible Action Item)

Director Dick-Endrizzi described the project list that tracks all major staff and Commission-related activities of interest. She explained that the list far exceeds what can be accomplished with the resources available to the Office, which reinforces the need for the Commission to set priorities during Items 11 through 14.

Commissioner Dooley reported that some supervisors have approached her talking about small business incentive programs, and legacy business protections.

Commissioner Dwight suggested that staff see if other small business publications in the City would be willing to allow use of featured articles in the OSB's monthly newsletter. This could reduce staff time developing content while providing these other outlets with new and expanded readership.

Public Comment was called for and no members of the public requested to speak.

10. Presentation on the OSB's Small Business Assistance Center including services and functions, number of clients served, client demographics, business trends and budget. (Discussion and Possible Action Item)

Small Business Assistance Center Supervisor Martha Yanez presented a broad array of performance measures for the SBAC during the previous year. Director Dick-Endrizzi presented on the current Office of Small Business budget.

Commissioner Dwight suggested that for next year, the Director should seek an additional \$3,000 in sponsorship support from American Express to cover the full banner cost. He indicated that amount should be insignificant to AMEX, but could greatly help the department in budget terms.

Public Comment was called for and no members of the public requested to speak.

11. Identify key issues facing the San Francisco's Small Businesses for 2014 and 2015. (Discussion and Possible Action Item)

Director Dick-Endrizzi provided an overview of the input needed from commissioners.

Commissioner Dooley mentioned San Francisco County Transportation Authority (SFCTA) congestion/corridor pricing, and Planning Department policies for reuse of former big-box retail spaces, as significant issues. She believes former big-box retail spaces could be used for PDR businesses, not only as new formula retail uses.

Commissioner White offered regional workforce transportation as a key issue. Her restaurant must limit lateevening service and release many workers prematurely to allow them time to ride transit to their homes in the East Bay. Early releases are hampering her business's ability to service customers, and artificially limited her workers' wages.

Commissioner Dwight identified overall affordability, wages, rents, and taxes as the main small business issues for 2014 and 2015.

Commissioner Adams stated that vilifying landlords is a problem. The City must incentivize landlords to achieve its programmatic goals.

Commissioner Dooley called for creating a program to assist small businesses to purchase their buildings. Commissioner Adams noted from his experience, however, that banks are generally reluctant to deal with the City. Things move too slowly, and there is too much paperwork.

Commissioner Ortiz-Cartagena cited health care as the primary issue for small businesses over the coming one to two years.

Commissioners White and Dwight shared concerns about minimum wage increases harming the hiring of transitional individuals and youth. A significant increase could harm the City's other programmatic goals.

Public Comment was called for and no members of the public requested to speak.

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Review of Commission Committees, Committee Projects, and Assignments to the Committees. (Discussion and Possible Action Item)

Director Dick-Endrizzi provided an overview of current assignments to the Legislation & Policy Committee, Outreach & Economic Committee, and Permitting Committee. She cited staffing shortfalls within the Office as limited the ability to support much recent committee work outside of hearing legislation.

Commissioner Dwight shared that he finds committee participation burdensome, and also finds that committee action outside of the full commission is hard to track. Commissioner Adams agreed, and is unsure of the purpose of the Permitting Committee, to which Commissioner Dooley also agreed.

Public Comment was called for and no members of the public requested to speak.

Motion: Commissioner Dwight motioned to abandon all current committees and to determine at full

Commission meetings what legislative, policy, and other matters to assign to committees, including the use of ud

hoc committees.

2nd: Commissioner White

Aye: Adams, Dooley, Dwight, Ortiz Cartagena, and White

Nav: None

Absent: Yee Riley

Develop a Strategic Plan and Action Plan for the remainder of Fiscal Year (FY) 2013/2014 and for 2014/2015. (Discussion and Possible Action Item)

Director Dick-Endrizzi explained to commissioners the types of input needed for development of a new Strategic Plan and Action Plan. Acting Commission Secretary Murdock explained how staffing resource limitations, stemming from two of four full-time staff positions in OSB being vacant currently, will continue to constrain staff's ability to pursue many items of interest to the Commission. He suggested the Commission carefully prioritize issues of importance, and consider assigning a level of staff involvement such as "monitor, participate, investigate, initiate" to each item.

Commissioner Dwight expressed his understanding of there being more work than staff can complete. He explained how he does not see a need for separate "strategic" and "action" plans – rather, he just sees the need for a "plan." He suggests two important activities for the coming year include unifying access to business information and the permitting process. And, enhancing affordability to retain existing businesses while encouraging the creation of new businesses.

Public Comment was called for and no members of the public requested to speak.

Presentation and Commission Guidance on FY 2014/2015 OSB Budget. (Discussion and Possible Action Item)

Director Dick-Endrizzi discussed current budget projections and proposed activities for funding. She requested commissioner support lobbying for an additional \$35,000 to conduct a feasibility assessment for a one-stop business center similar to that in Chicaco.

Commissioner Dwight suggested making a more robust proposal with all ideal components, so that any paring back of the request will still leave core capabilities intact.

Commissioner White asked whether any money had been allocated to OSB from the gross receipts tax changes. Director Dick-Endrizzi responded in the negative, explaining the only agreement reach on use of new revenues was for the affordability housing set aside.

Commissioner Dwight suggested the budget contain a request for additional staff. Even though approval of the

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request is unlikely, he believes more staff is needed to satisfy unmet demands for OSB services.

Public Comment was called for and no members of the public requested to speak.

Motion: Commissioner Dwight motioned to direct staff to make additional budget requests, in amounts determined at the discretion of the Director, for the following purposes: 1) A comprehensive one-stop business center assessment; and, 2) Additional staff to meet projected needs.

2nd: Commissioner Dooley

Aye: Adams, Dooley, Dwight, Ortiz Cartagena, and White

Nay: None

Absent: Yee Riley

15. New Business. (Discussion Item)

None.

16. Adjournment. (Action Item)

Motion: Commissioner Dooley motioned to adjourn.

2nd: Commissioner Ortiz-Cartagena

Aye: Adams, Dooley, Dwight, Ortiz Cartagena, and White

Nay: None

Absent: Yee Riley

The meeting adjourned at 3:44 PM.

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REGINA DICK-ENDRIZZI, EXECUTIVE DIRECTOR CHRISTIAN MURDOCK, ACTING COMMISSION SECRETARY

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SMALL BUSINESS COMMISSION NOTICE OF MEETING CANCELLATION



Monday, March 10, 2014
5:30 PM
CITY HALL, ROOM 400
1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102

SMALL BUSINESS COMMISSIONERS

Stephen Adams, President Monetta White, Vice President Kathleen Dooley, Mark Dwight William Ortiz-Cartagena, Irene Yee Riley

The Small Business Commission meeting of March 10, 2014, is cancelled.

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REGINA DICK-ENDRIZZI. EXECUTIVE DIRECTOR
CHRISTIAN MURDOCK. ACTING COMMISSION SECRETARY

3/10/14

SMALL BUSINESS COMMISSION 1 Dr. Carlton B. Goodlett Place, Room 110 San Francisco, CA, 94102 415.554.6134









SMALL BUSINESS COMMISSION NOTICE OF MEETING & AGENDA



Monday, March 24, 2014
2:00 P.M.
CITY HALL, ROOM 400
GOVERNMENT
1 Dr. Carlton B. Goodlett Place, San Francisco, CA 941@OCUMENTS DEPT

SMALL BUSINESS COMMISSIONERS

Stephen Adams, President Monetta White, Vice President Kathleen Dooley, Mark Dwight William Ortiz-Cartagena, Irene Yee Riley MAR 21 2014

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1. Call to order and roll call.

- General Public Comment: Allows members of the public to comment generally on matters within the Commission's purview, and suggest new agenda items for the Commission's future consideration. (Discussion Item)
- 3. Approval of the February 24, 2014 regular meeting minutes. (Action Item)

Explanatory Documents: <u>Draft February 24, 2014 regular meeting minutes</u>

4. Approval of the March 5, 2014 special meeting (annual retreat) minutes. (Action Item)

Explanatory Documents: Draft March 5, 2014 special meeting (annual retreat) minutes

5. Discussion and possible action to make recommendations to the Board of Supervisors (BOS) on BOS File No. 140122 [Planning, Building Codes - Fee Waiver Program - Small Business Month, May 2014]: Ordinance recognizing Small Business Month in May 2014; amending the Planning Code and the Building Code to retroactively waive fees for the month of May for certain façade improvements; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings, including environmental findings and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1. (Discussion and Possible Action Item)

Explanatory Documents: BOS File No. 140122; BOS File No. 140122 Legislative Digest

Presentation by Supervisor Katy Tang

6. Presentation on the San Francisco Municipal Transportation Agency's (SFMTA) "Public Outreach and Engagement Strategy" (POETS): Overview of the SFMTA's development of a Public Outreach and Engagement Strategy to strategically manage its public outreach and engagement process. Key discussion topics will include the current state of outreach, objectives of POETS, 5-Step Approach, methodology, and development of public outreach notification standards. (Discussion and Possible Action Item)

Explanatory Documents: Public Outreach and Engagement Team Strategy Presentation

Presentation by Deanna Desedas, SFMTA Marketing/Public Outreach & Engagement Manager

7. Presentation on the San Francisco Municipal Transportation Agency's (SFMTA) Draft 2015-2019 Capital Improvement Plan (CIP). An overview of the SFMTA's proposed 2015-2019 Capital Improvement Program (CIP), a fiscally constrained plan that outlines the agency's capital priorities and planned capital projects over the next five

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years. The presentation will include a discussion of the proposed transportation funding measures recommended by the Mayor's Transportation 2030 Task Force. (Discussion and Possible Action Item)

Presentation by Craig Raphael, SFMTA Transportation Planner

8. Discussion and possible action on the Small Business Commission's motion at the Special Meeting (Annual Retreat) on March 5, 2014, to dissolve all standing committees, including consideration of the necessity to establish any new committees: The Commission's action to dissolve all standing committees will impact the Office of Small Business staff's procedures for processing and scheduling policy and legislative matters requiring Commission review. In particular, the process of hearing legislation has been altered as the Legislation & Policy Committee will no longer automatically hear all legislative proposals prior to a full Commission hearing. Therefore, a further discussion of these matters is necessary to facilitate staff processing of policy and legislative items to ensure appropriate Commission involvement. (Discussion and Possible Action Item)

Explanatory Documents: Topics for Commissioner Consideration

- Director's Report: Update and report on the Office of Small Business and the Small Business Assistance
 Center, update on department programs, recent announcement from the Mayor, newly introduced policy matters,
 update on legislative matters, and announcements regarding small business activities. (Discussion Item)
- 10. President's Report: Allows the President to report on recent small business activities and make announcements that are of interest to the small business community. (Discussion Item)
- 11. Vice President's Report: Allows the Vice President to report on recent small business activities and make announcements that are of interest to the small business community. (Discussion Item)
- Commissioner Reports: Allows Commissioners to report on recent small business activities and make announcements that are of interest to the small business community. (Discussion Item)
- 13. Discussion and possible action for the Small Business Commission to conduct a Public Employee Performance Evaluation for Office of Small Business Executive Director Regina Dick-Endrizzi and whether to conduct the evaluation in Closed Session:
 - a. Public comment on all matters pertaining to this agenda item. (Discussion Item)
 - b. Consideration of any Motion to convene in Closed Session to evaluate the performance of Office of Small Business Executive Director Regina Dick-Endrizzi. (Discussion and Possible Action) Subject to adoption of such a Motion, the Small Business Commission shall enter a Closed Session. Otherwise, the item may be considered in Open Session.
 - c. CLOSED SESSION. Discussion and possible action regarding the performance evaluation of a public employee pursuant to California Government Code Section 54957(b) (Brown Act) and San Francisco Administrative Code Section 67.10(b) (Sunshine Ordinance). (Discussion and Possible Action Item) Upon completion of the business to be conducted in Closed Session, the Small Business Commission shall recomene in Open Session.
 - d. The Commission shall report any action taken during the closed session, pursuant to Government Code Section 54957.1(a) (Brown Act) and Administrative Code Section 67.12(b) (Sunshine Ordinance). (Discussion Item)
 - e. Consider a motion to disclose or not disclose any portion of the Closed Session that is not confidential under federal or state law, the Charter, or non-waivable privilege, pursuant to Administrative Code Section 67.12(a) (Sunshine Ordinance). The Commission may elect either to disclose no information or to disclose the information that a majority deems to be in the public interest. (Action Item)

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- 14. Discussion and possible action to update public employee evaluation and performance plan criteria for the Office of Small Business Executive Director for the period Fiscal Year 2013-2014. (Discussion and Possible Action)
- 15. General Public Comment: Allows members of the public to comment generally on matters within the Commission's purview, and suggest new agenda items for the Commission's future consideration. (Discussion Item)
- 16. New Business: Allows Commissioners to introduce new agenda items for future consideration by the Commission. (Discussion Item)
- 17. Adjournment. (Action Item)

Public Comment will be taken before or during the Small Business Commission's consideration of each agenda item. Speakers are requested but not required to complete a speaker card and state their names, which will help ensure proper spelling of speakers' names in the written record of the meeting.

Explanatory Documents: Copies of proposed legislation listed in this agenda, and other related materials received by the SBC after the posting of the agenda, are available for public inspection and/or copying at City Hall Room 110. Please call (415) 554-6134 to make arrangements for pick up or review.

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Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that city operations are open for the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at (415) 554-6083. To obtain a free copy of the Sunshine Ordinance contact:

City Hall, Room 244 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4683 Office: (415) 554-7724 Fax: (415) 554-5163 E-Mail:

sotf@sfgov.org

Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library and on the City's website at www.sfgov.org.

Cell Phone and/or Sound-Producing Electronic Device Usage at Hearings

Effective January 21, 2001, the Board of Supervisors amended the Sunshine Ordinance by adding the following provision: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

Disability Access Policy

Accessible seating for persons with disabilities (including those using wheelchairs) is available. The closest accessible BART Station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible MUNI lines serving City Hall include 5 Fulton and 49 Mission/Van Ness, and all Metro lines servicing the Metro station at Van Ness and Market. For more information about MUNI accessible services, call (415) 923-6142. Accessible parking in the vicinity of City Hall is available adjacent to Davies Hall and the War Memorial Complex, and also in the Civic Center Garage (355 McAllister Street) and Performing Arts Garage (360 Grove Street). American Sign Language interpreters and/or a sound enhancement system will be available upon request by contacting Milton Edelin at (415) 558-6410 at least 72 hours prior to a hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should the accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

Translation Services

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Lobbyist Ordinance

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Chemical Sensitivity

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LEGISLATIVE DIGEST

[Planning, Building Codes - Fee Waiver Program - Small Business Month, May 2014]

Ordinance recognizing Small Business Month in May 2014; amending the Planning Code and the San Francisco Building Code to retroactively waive fees for the month of May for certain façade improvements; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings, including environmental findings and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

The Planning Code establishes permit fees for certain applications, including awning replacement and for signs. The Building Code establishes permit fees to review the structural integrity of awning replacements among other types of permit review.

Amendments to Current Law

In recognition of Small Business Month in May 2014, this legislation would waive Planning Code fees for awning replacement and for signs on awnings for small businesses during the month of May 2014. The Ordinance also would waive Building Code fees related to review of the structural integrity of awning replacements for small businesses during this time. The legislation would define small businesses to be those with 100 or fewer employees and delegate to the Directors of City Planning and Building Inspection the ability to establish a process to certify that a business meets this definition. The Ordinance would affirm the Planning Department's California Environmental Quality Act determination and make findings of consistency with the City's General Plan and priority policies of Planning Code Section 101.1.



1	[Planning, Building Codes - Fee Waiver Program - Small Business Month, May 2014]
2	
3	Ordinance recognizing Small Business Month in May 2014; amending the Planning
4	Code and the Building Code to retroactively waive fees for the month of May for certain
5	façade improvements; affirming the Planning Department's determination under the
6	California Environmental Quality Act; and making findings, including environmental
7	findings and findings of consistency with the General Plan, and the eight priority
8	policies of Planning Code, Section 101.1.
9 10	NOTE: Unchanged Code text and uncodified text are in plain Arial font. Additions to Codes are in single-underline italics Times New Roman font. Deletions to Codes are in strikethrough italics Times New Roman font.
11 12	Board amendment additions are in double-underlined Arial font. Board amendment deletions are in strikethrough Arial font. Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.
13	
14	Be it ordained by the People of the City and County of San Francisco:
15	
16	Section 1. Findings and Purpose.
17	(a) May is Small Business Month, and the Board of Supervisors desires to recognize
18	the importance of small businesses in San Francisco. As part of this recognition, the Board
19	elects to waive various local permit fees for the month of May 2014 for the replacement of
20	awnings and signs on awnings and installation of pedestrian level lighting as these fees have
21	acted as a bar for many small businesses to improve their building facades and store fronts.
22	(b) On, 2014, the Planning Commission adopted Resolution No.
23	recommending adoption of this ordinance, and adopted findings that the
24	Ordinance is consistent, on balance, with the City's General Plan, and eight priority policies of
25	Planning Code, Section 101.1(b). The Board of Supervisors adopts these findings as it own.

1	A copy of this Commission Resolution is on file with the Clerk of the Board in File No.
2	, and is incorporated herein by reference.
3	(c) Pursuant to Planning Code, Section 302, the Board of Supervisors finds that this
4	ordinance will promote the public necessity, convenience, safety and welfare for the reasons
5	set forth in Planning Commission Resolution No, which is incorporated
6	herein by reference.
7	(d) The Planning Department has determined that the actions contemplated in this
8	ordinance comply with the California Environmental Quality Act (CEQA, California Public
9	Resources Code, Section 21000 et seq.). The Board of Supervisors affirms the Department's
10	CEQA determination. Said determination is on file with the Clerk of the Board of Supervisors
11	in File No and is incorporated herein by reference.
12	(e) On, 2014, the Building Inspection Commission conducted a public
13	hearing on this ordinance and recommended approval of this ordinance. On,
14	2014, the Building Inspection Commission Secretary submitted a letter to the Board of
15	Supervisors describing the Commission's action. Said letter is on file with the Clerk of the
16	Board of Supervisors in File No and is incorporated herein by reference.
17	
18	Section 2. Fee Waivers.
19	(a) Notwithstanding any provision of the Planning Code, including the fee schedule
20	associated with Sections 355(a) and 355(e), the permit fee for awning replacement and for
21	signs on awnings, respectively, is hereby waived for any permit issued for such activities
22	during the month of May 2014.
23	(b) Notwithstanding any provision of the Building Code, including the fee schedules of
24	Tables 1A-A and 1A-E, the permit fees related to reviewing the structural integrity of awning
25	replacements for those permits submitted "over the counter" at the Central Permit Bureau and

c) The fee waivers set forth in Section 2 shall apply only to small business enterprises. For purposes of this Section 2 a small business enterprise shall be one that has 100 or fewer employees. The Board of Supervisors hereby delegates to the Department of Building Inspection and the Planning Department the establishment of a process by which the respective departments will certify that an applicant is a small business enterprise.

Section 3. Effective and Operative Dates. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance. However, in order to effectuate the intent of this ordinance, the operative provisions of this ordinance shall be retroactive to May 1, 2014, should the effective date of the ordinance occur after May 1, 2014.

APPROVED AS TO FORM: DENNIS J. HERRERA, City Attorney

By:
John D. Malamut
Deputy City Attorney





Public Outreach and SFMTA Transportation Agency Municipal

Engagement Team Strategy March 24, 2014 (POETS)



SFMTA Manages Transportation





AGENDA

- Current Situation
- POETS 5 Step Approach
- Methodology
- Scoping Projects for Outreach
- POE Objectives
- Public Outreach Notification Standards
- Where We're Headed



Current State of Outreach

Hundreds of SFMTA projects planned or in process

STAKEHOLDER FRUSTRATION

No standardized
approach to engaging
and informing
communities
and the public

Limited tools and resources

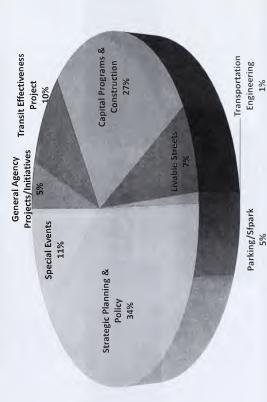
Slow project

delivery



Looking Ahead

Over the next 18 months, more than 56,000 hours will be required to support outreach on SFMTA projects



Percentage of Outreach Hours by Area n= 56,402 Hours of Outreach

Public Engagement & Outreach Approach

Identify Current Practices & Pain Points

> valuate and ontinuously Improve

POETS

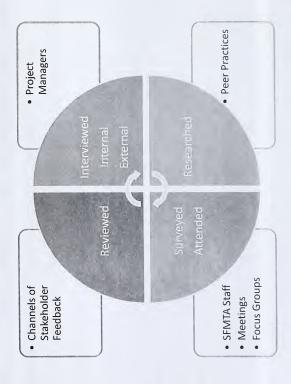
Research Best Practices

Implement

Recommendations

..

Methodology



Scoping Projects for Outreach

Criteria for	Small	Medium	Large	Extra Large
Categorization				
Scope and Complexity	Low	Medium	High	Very High
Duration	Up to 6 months	6mos- 1yr	1yr – 3 yrs	3+ yrs
Level of public	Low	Medium	High	Very High
engagement	Up to 2 mtgs.	Up to 10 mtgs.	Min. 10 mtgs.	Min. 10 mtgs.
needed				CAC, TAC, Policy Group
Public impact of	Low	Medium	High	Very High
project				
(construction,				
transit service,				
EJ Analysis,				
Title VI				
requirements)				
Examples:	Bulbouts, move	MMT	Church & Duboce	TEP
	stop	Subway	Sunset Tunnel	Van Ness BRT
		Communications	Carl & Cole	
Outreach Hours:	472	1290	2700	5400





POETS Objectives

- delivered successfully to communities across all engagement that enables projects to be Create a model for public outreach and of SFMTA's areas of responsibility
- resources to support engagement and Identify and deliver useful tools and outreach
- expectations to build positive community Better manage public and stakeholder relationships

Public Outreach Notification Standards

Minimum Standards for Outreach Projects: (Work in Progress)

- Assess:

- Identifies Key Stakeholders & Impact
 - Project Goals & Objectives
- Key Project Milestones
- Determines Level of Public Participation

- Plan

- Identifies Communications Tactics
- Determines Budget & Resources Needed
- Outlines Roles & Responsibilities
- Customization of Outreach & Engagement Plan
- Creates Timeline for Milestones and Delivery

- Evaluate

- Measures Outreach & Engagement
 - Assesses Project Outcome



Where We're Headed **Capabilities Development** Internal Structure

Continuously Evaluate & Improve

Questions and Feedback

Thank You!

Deanna Desedas, Marketing & Outreach Mgr. E-mail: <u>Deanna.Desedas@sfmta.com</u> Phone: 415.701.4389



Agenda Item 8

"Discussion and possible action on the Small Business Commission's motion at the Special Meeting (Annual Retreat) on March 5, 2014, to dissolve all standing committees, including consideration of the necessity to establish any new committees"

Topics for Commissioner Consideration

- Will the Commission establish a standing or special committee to hear policy and legislative matters upon assignment by the full Commission?
- 2. Who will serve on any such standing or special committee?
- 3. Should any committee established for these purposes meet on a routine date, or ad hoc only?
- 4. What inputs from staff will commissioners need to enable their informed decision making on policy and legislative matters to send to a committee?
- 5. What is an appropriate name for any standing or special committee established for these purposes?
- 6. Should the Commission reestablish a committee identical or similar to the Legislation & Policy Committee?





SMALL BUSINESS COMMISSION DRAFT MEETING MINUTES



Monday, March 24, 2014 2:00 P.M. CITY HALL, ROOM 400 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102

SF 552 *2 3/24/14

SMALL BUSINESS COMMISSIONERS

Stephen Adams, President Monetta White, Vice President Kathleen Dooley, Mark Dwight William Ortiz-Cartagena, Irene Yee Riley

1 Call to order and roll call.

The meeting was called to order at 2:06 PM. Commissioners Adams, Dooley, Dwight, Yee Riley, and White were present. Commissioner Ortiz-Cartagena was absent. One seat on the Commission was vacant.

2. General Public Comment. (Discussion Item)

General Public Comment was called for and no members of the public requested to speak.

3. Approval of the February 24, 2014 regular meeting minutes. (Action Item)

Explanatory Documents: <u>Draft February 24, 2014 regular meeting minutes</u>

Motion: Commissioner Dwight motioned to adopt the meeting minutes.

2nd: Commissioner Dooley

Ave: Adams, Dooley, Dwight, Yee Riley, and White

Nay: None

Absent: Ortiz-Cartagena

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4. Approval of the March 5, 2014 special meeting (annual retreat) minutes. (Action Item)

Explanatory Documents: Draft March 5, 2014 special meeting (annual retreat) minutes

Motion: Commissioner Dwight motioned to adopt the meeting minutes.

2nd: Commissioner Dooley

Aye: Adams, Dooley, Dwight, Yee Riley, and White

Nay: None

Absent: Ortiz-Cartagena

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 Discussion and possible action to make recommendations to the Board of Supervisors (BOS) on BOS File No. 140122 [Planning, Building Codes - Fee Waiver Program - Small Business Month, May 2014]. (Discussion and Possible Action Item)

Explanatory Documents: BOS File No. 140122; BOS File No. 140122 Legislative Digest

Ashley Summers, Legislative Aide to Supervisor Katy Tang, presented. She described the benefits to participating businesses as well as outreach efforts conducted to identify as many participants as possible. Ms. Summers noted that beginning this year, should the Commission support doing so, Supervisor Tang may introduce follow-on legislation to make the fee waivers permanent in May of each subsequent year. Doing so would reduce the need to pass fee waiver legislation each year.

Commissioner Yee Riley asked how many small businesses have applied in the past, city-wide. Ms. Summers responded that this is the third year for the program, and in the previous two years, participation was as follows: 2012 – 10 businesses; and 2013 – 11 businesses.

Commissioner Dwight asked if drawings must be submitted during the program window, or if businesses may simply file their intent to apply for a permit. Ms. Summers said she was unsure of those specifies of the permitting process, but would find the answer for the Commission.

Public Comment was called for and no members of the public requested to speak.

Motion: Commissioner Dwight motioned to recommend approval of the legislation as drafted, and to support permanent adoption of the permit fee waiver in May of each year.

2nd: Commissioner Yee Riley

Aye: Adams, Dooley, Dwight, Yee Riley, and White

Nav: None

Absent: Ortiz-Cartagena

 Presentation on the San Francisco Municipal Transportation Agency's (SFMTA) Draft 2015-2019 Capital Improvement Plan (CIP). (Discussion and Possible Action Item)

At the presenter's request, Commissioner Adams called Item 7 before Item 6.

Two SFMTA staff members presented: Craig Raphael, Capital Finance Section; and, Ariel McGinnis, Mr. Raphael announced the SFMTA's solicitation of input into the budget and CIP process. Of note, the plan proposes some robust transportation investments, including replacement of the entire rubber-wheeled fleet over the next five years. However, the plan is based on approval on November's ballot of the Mayor's Transportation Task Force-recommended revenues totaling approximately \$600 million.

Director Dick-Endrizzi asked whether upcoming projects in merchant corridors will be clearly identified and denote a project timeline in the final CIP. Mr. Raphael confirmed that each major project will have its own website with integrated informational materials.

Commissioner Dooley thanked the SFMTA for working to improve its outreach efforts. Past projects in North Beach left residents and businesses confused about what was coming and when.

No action was taken.

6. Presentation on the San Francisco Municipal Transportation Agency's (SFMTA) "Public Outreach and Engagement Strategy" (POETS). (Discussion and Possible Action Item)

Explanatory Documents: Public Outreach and Engagement Team Strategy Presentation

At the presenter's request, Commissioner Adams called Item 6 after Item 7.

Deanna Desedas, SFMTA Marketing/Public Outreach & Engagement Manager, presented.

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Commissioners Dooley and White thanked the presenter and SFMTA Director Ed Reiskin for their efforts advancing improvements in public outreach.

Commissioner Adams noted that SFMTA outreach on the Church Street project has been very good.

No action was taken.

 Discussion and possible action on the Small Business Commission's notion at the Special Meeting (Annual Retreat) on March 5, 2014, to dissolve all standing committees, including consideration of the necessity to establish any new committees. (Discussion and Possible Action Item)

Explanatory Documents: Topics for Commissioner Consideration

Commissioner Adams initiated the discussion of this item by mentioning his thoughts about the committee structure after the vote for dissolution on March 5, 2014. Upon reflection, and after discussion with Director Dick-Endrizzi, he supports reestablishment of the Legislation and Policy Committee. Commission redams described its benefits to the Commission, which included allowing one-on-one time with legislative sponsors in order to provide specific input on behalf of small businesses. Past practice has led to legislative changes before an item reached a full hearing before the Commission.

Commissioner Yee Riley supported restoration of the Committee. Presenting once before appearing at the full Commission allows many questions to be asked and researched to allow answers at the full Commission.

Commissioner Dwight asked whether restoration of the Committee as a "standing committee" would require a standing meeting. Commissioner Adams responded that the Committee would only meet when necessary.

Commissioner Dooley agreed that the Legislation and Policy Committee was useful, but wondered if it might be possible to change its structure or establish a rotating membership.

Director Dick-Endrizzi responded to commissioner comments and questions. She noted that due to staffing and facility scheduling requirements, it would be helpful to establish a recurring meeting date. Acting Commission Secretary Murdock provided some meeting date suggestions to the Commission that leverage meeting room reservations still in place from the three previous committees.

Commissioner Dwight said that in his mind, he perceived reconstitution of the Committee as a third Commission meeting that was only attended by a subset of commissioners. He suggested that as the agendas for Committee meetings take shape, there be a mechanism in place to allow commissioners with an interest or particular expertise in the items under consideration to participate.

Acting Commission Secretary Murdock offered for the Commission's consideration a format where instead of three permanent Committee members, there would be two. The third Committee member could alternate as interest or expertise demanded while still remaining below a quorum of the full Commission. He reminded the Commission that its Rules of Order allowed the Commission President to unilaterally assign the Committee Chair and members of a standing committee without Commission action, which could facilitate a more flexible membership.

Public Comment was called for and no members of the public requested to speak.

Motion: Commissioner Dooley motioned to establish a standing committee to review legislative and policy matters.

2nd: Commissioner Yee Riley

Aye: Adams, Dooley, Dwight, Yee Riley, and White

Nav: None

Absent: Ortiz-Cartagena

President Adams stated he would consider committee membership and supported the idea of a more flexible

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membership structure. He expressed his intent to be a member of the Legislation and Policy Committee, and would consult with Director Dick-Endrizzi on the way forward.

9. Director's Report. (Discussion Item)

Director Dick-Endrizzi presented a verbal and written report. Commissioner Adams noted that the Noe Valley Merchants Association would participate in the Small Business Week "Mega Connections/Mega Opportunity" event. Commissioner Dwight expressed his surprise at hearing of a signature gathering effort for a \$15.75 per hour minimum wage ballot initiative that is not aligned with Mayor Lee's related efforts.

10. President's Report. (Discussion Item)

None

11. Vice President's Report. (Discussion Item)

Commissioner White reported her attendance at the Mayor's Stakeholder Community Forum at the University of San Francisco.

12. Commissioner Reports. (Discussion Item)

Commissioner Dooley reported her attendance at the latest meeting of the Americans with Disabilities Act (ADA) Working Group sponsored by Supervisor Tang. She also announced her upcoming attendance at the Formula Retail Focus Group hosted by the Planning Department.

13. Discussion and possible action for the Small Business Commission to conduct a Public Employee Performance Evaluation for Office of Small Business Executive Director Regina Dick-Endrizzi and whether to conduct the evaluation in Closed Session:

a. Public comment on all matters pertaining to this agenda item. (Discussion Item)

Public Comment was called for and no members of the public requested to speak.

 Consideration of any Motion to convene in Closed Session to evaluate the performance of Office of Small Business Executive Director Regina Dick-Endrizzi. (Discussion and Possible Action)

Motion: Commissioner Yee Riley motioned to convene in Closed Session.

2nd: Commissioner Dooley

Aye: Adams, Dooley, Dwight, Yee Riley, and White

Nay: None

Absent: Ortiz-Cartagena

c. CLOSED SESSION. Discussion and possible action regarding the performance evaluation of a public employee pursuant to California Government Code Section 54957(b) (Brown Act) and San Francisco Administrative Code Section 67.10(b) (Sunshine Ordinance). (Discussion and Possible Action Item)

The Commission convened in Closed Session at 3:14 PM, and conducted business in accordance with the agenda.

d. The Commission shall report any action taken during the closed session, pursuant to Government Code Section 49957.1(a) (Brown Act) and Administrative Code Section 67.12(b) (Sunshine Ordinance). (Discussion Item)

The Commission reconvened in Open Session at 3:45 PM. Commissioner Adams reported action taken during the Closed Session.

SMALL BUSINESS COMMISSION 1 Dr. Carlton B. Goodlett Place, Room 110 San Francisco, CA 94102 415.554.6134 Motion: Commissioner Yee Riley motioned to approve with additional comments the Public

Employee Performance Evaluation discussed in closed session.

2nd: Commissioner Dooley

Ave: Adams, Dooley, Dwight, Yee Riley, and White

Nav: None

Absent: Ortiz-Cartagena

e. Consider a motion to disclose or not disclose any portion of the Closed Session that is not confidential under federal or state law, the Charter, or non-waivable privilege, pursuant to Administrative Code Section 67.12(a) (Sunshine Ordinance). The Commission may elect either to disclose no information or to disclose the information that a majority deems to be in the public interest. (Action Item)

There was no motion to disclose any information from the closed session.

14. Discussion and possible action to update public employee evaluation and performance plan criteria for the Office of Small Business Executive Director for the period Fiscal Year 2013-2014. (Discussion and Possible Action)

Director Dick-Endrizzi explained the proposed evaluation and performance plan criteria contained in the commissioners' packets. Pages 2, 3, and 4 include criteria on all department head evaluations, and Page 5 is a department-specific list of performance measures. She informed the commissioners that no action is necessary at this time if the commissioners desire more time to review the proposed plan.

Public Comment was called for and no members of the public requested to speak.

Motion: Commissioner Dwight motioned to approve the performance plan criteria with the deletion of OSB branding (p. 5, Item 1).

2nd: Commissioner Dooley

Aye: Adams, Dooley, Dwight, Yee Riley, and White

Nay: None

Absent: Ortiz-Cartagena

15. General Public Comment.

Public Comment was called for and no members of the public requested to speak.

16. New Business. (Discussion Item)

Commissioner Dooley communicated three New Business items:

- a. Identifying ways the Commission can advocate for workforce housing.
- b. Identifying ways the Commission can advocate for more affordable small business rents.
- c. A staff presentation on the status of the Office of Small Business's participation in Supervisor Tang's Americans with Disabilities Act (ADA) Working Group.

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17. Adjournment. (Action Item)

Motion: Commissioner Dwight motioned to adjourn.

2nd: Commissioner Yee Riley

Aye: Adams, Dooley, Dwight, Yee Riley, and White

Nay: None

Absent: Ortiz-Cartagena

The meeting adjourned at 3:54 PM.

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